

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Jun 07 2013 12:00 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

ROBERT HOLMES, III,
Appellant(s),
vs.

Case No: A537416
SC Case No: 62274

LAS VEGAS METROPOLITAN
POLICE DEPARTMENT,
Respondent(s),

RECORD ON APPEAL VOLUME 4

ATTORNEY FOR APPELLANT
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INDIAN SPRINGS, NV 89070

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LAS VEGAS, NV 89101

A537416 LAS VEGAS METROPOLITAN POLICE DEPARTMENT vs. U S
CURRENCY \$281,656.73

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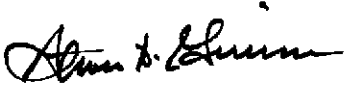
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CLERK OF THE COURT

1 **NEOJ**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 THOMAS J. MOREO
6 Chief Deputy District Attorney
7 Nevada Bar #002415
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

12 LAS VEGAS METROPOLITAN POLICE
13 DEPARTMENT,

Plaintiff,

-vs-

U.S. CURRENCY \$281,656.73,

Defendant.

CASE NO: 07A537416

DEPT NO: VIII

NOTICE OF ENTRY OF ORDER

15 TO: BRYAN M. FERGASON
16 Claimant In Proper Person

17 TO: ROBERT HOLMES, III
18 Claimant In Proper Person

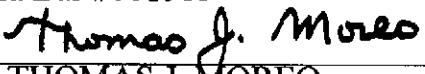
19 TO: DAIMON MONROE
20 Claimant In Proper Person

21 TO: TONYA TREVARTHEN
22 Claimant In Proper Person

23 YOU WILL PLEASE TAKE NOTICE that a Findings of Fact, Conclusion of Law
24 and Order was entered on the 28th day of November, 2012, in the above-entitled action, a
25 copy of which is attached hereto.

26 DATED this 29th day of November, 2012.

27 STEVEN B. WOLFSON
28 Clark County District Attorney
Nevada Bar #001565

BY 
THOMAS J. MOREO
Chief Deputy District Attorney
Nevada Bar #002415

CERTIFICATE OF MAILING

I hereby certify that service of the NOTICE OF ENTRY OF ORDER was made the 29th day of November, 2012, by depositing a copy in the U.S. Mail, postage prepaid, addressed to:

BRYAN M. FERGASON, (BAC #96803)
High Desert State Prison
P.O. Box 650
Indian Springs, NV 89070-0650

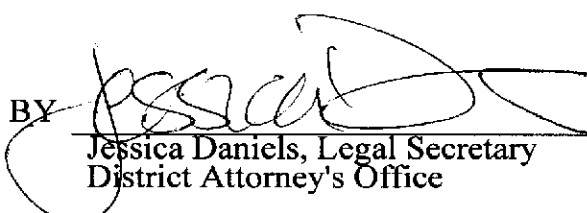
ROBERT HOLMES, III (BAC #1034184)
Southern Desert Correctional Center
P.O. Box 208
Indian Springs, NV 89070-0208

DAIMON MONROE (BAC #38299)
High Desert State Prison
P.O. Box 650
Indian Springs, NV 89070-0650

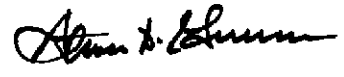
TONYA TREVARTHEN
aka Tonya Issa
1409 Hermitage Drive
Round Rock, Texas 78681-1924
(via certified mail, return receipt)

TONYA TREVARTHEN
aka Tonya Issa
807 David Curry Drive
Round Rock, Texas 78664
(via certified mail, return receipt)

BY


Jessica Daniels, Legal Secretary
District Attorney's Office

LVMPD EV#060924-0418; EV#061106-0453; EV#061122-1205; EV#061129-1719;
EV#061207-1290; EV#061207-1538; EV#061214-1544; EV#070226-0684/jd


CLERK OF THE COURT

1 FCL
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 THOMAS J. MOREO
6 Chief Deputy District Attorney
7 Nevada Bar #002415
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

10 LAS VEGAS METROPOLITAN POLICE
11 DEPARTMENT,

12 Plaintiff,

CASE NO: 07A537416
DEPT NO: VIII

13 -vs-

14 U.S. CURRENCY \$281,656.73,

15 Defendant.

16 **FINDINGS OF FACT, CONCLUSIONS OF**
17 **LAW AND ORDER**

18 DATE OF HEARING: November 13, 2012
19 TIME OF HEARING: 8:00 A.M.

20 THIS CAUSE having come on for hearing before the Honorable Douglas Smith,
21 District Judge, on the 13th day of November, 2012, the Plaintiff being represented by
22 STEVEN B. WOLFSON, Clark County District Attorney, by and through THOMAS J.
23 MOREO, Chief Deputy District Attorney, and the Claimants DAIMON MONROE, aka
24 Daimon Devi Hoyt, (hereinafter referred to as "DAIMON MONROE"), BRYAN M.
25 FERGASON, aka Bryan Michael Fergason, aka J.B., (hereinafter referred to as "BRYAN M.
26 FERGASON"), TONYA M. TREVARTHEN, aka Tonya Michelle Trevarthen, (hereinafter
27 referred to as "TONYA M. TREVARTHEN"), and ROBERT HOLMES, III, aka Bobby
28 Holmes, aka Robert Holmes, (hereinafter referred to as "ROBERT HOLMES, III"), and the
Court having considered the matter, including briefs, transcripts, arguments of counsel, and

documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. A Complaint for Forfeiture was filed on March 9, 2007, wherein U.S. CURRENCY \$281,656.73 represents proceeds attributable to the commission or attempted commission of a felony, to wit: BURGLARY (NRS 205.060) and/or GRAND LARCENY (NRS 205.220) and/or POSSESSION OF STOLEN PROPERTY (NRS 205.275).

2. An Answer to the Complaint for Forfeiture was filed by DAIMON MONROE on April 5, 2007.

3. Cynthia L. Dustin, Esq., filed an Answer to the Complaint for Forfeiture on behalf of BRYAN M. FERGASON on April 10, 2007.

4. Sean P. Sullivan, Esq., filed an Amended Answer to the Complaint for Forfeiture on behalf of ROBERT HOLMES, III. on April 12, 2007.

5. In April of 2007, DAIMON MONROE filed a Motion to Stay Proceedings in this forfeiture matter pending the outcome in Case Nos. C228752 and 06F18594. In respect to DAIMON MONROE's Motion for Stay pending the outcome in the criminal case, Case No. C228752, all Defendants have been adjudicated guilty. As to Claimant TONYA M. TREVARTHEN, a Judgment of Conviction was filed in this matter on October 3, 2008, wherein she pled guilty to one (1) count Conspiracy to Possess Stolen Property and/or to Commit Burglary and one (1) count Possession of Stolen Property. On January 5, 2009, a Judgment of Conviction was filed as to Claimant ROBERT HOLMES, III, wherein he entered a plea of guilty to one (1) count of Conspiracy to Possess Stolen Property and/or Commit Burglary and two (2) counts of Possession of Stolen Property. Claimants DAIMON

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1 MONROE and BRYAN M. FERGASON were brought to trial in the Eighth Judicial District
2 Court under Case No. C228752. A jury found DAIMON MONROE guilty of one (1) count
3 of Conspiracy to Possess Stolen Property and/or to Commit Burglary and 26 counts of
4 Possession of Stolen Property. An Amended Judgment of Conviction was filed in this
5 matter September 17, 2010. Further, a jury found BRYAN M. FERGASON guilty of one
6 (1) count of Conspiracy to Possess Stolen Property and/or to Commit Burglary and 25 counts
7 of Possession of Stolen Property.

8 6. Further, as to Claimant DAIMON MONROE'S Motion for Stay, he also
9 referenced the outcome in the pending criminal case, Case No. 06F18594X. This case was
10 bound over to District Court as Case No. C227874 where DAIMON MONROE and BRYAN
11 M. FERGASON were brought to trial and a jury found them guilty of two (2) counts of
12 Burglary, one (1) count of Grand Larceny, and one (1) count of Possession of Burglary
13 Tools. An Amended Judgment of Conviction was filed in Case No. C227874 on August 4,
14 2008, as to Claimant DAIMON MONROE. A Second Amended Judgment of Conviction
15 was filed in Case No. C227874 on March 3, 2010, as to Claimant BRYAN M. FERGASON.

16 7. On April 23, 2007, BRYAN M. FERGASON, through his attorney Cynthia L.
17 Dustin, filed a Motion to Stay Proceedings in this forfeiture matter pending the outcome in
18 Case No. C208321. In respect to BRYAN M. FERGASON's Motion for Stay he referenced
19 the pending outcome in the criminal case, Case No. C208321. On June 29, 2011, a Second
20 Amended Judgment of Conviction was filed wherein BRYAN M. FERGASON entered a
21 plea of guilty to Attempt Burglary.

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1 8. On March 5, 2012, Plaintiff filed a Motion to Lift the Stay of this forfeiture
2 matter as the Defendants had been adjudicated in all of the criminal cases, Case Nos.
3 C228752, 06F18594 (which was bound over to District Court as Case No. C227874), and
4 C208321. The Order Granting Motion to Lift Stay was filed with the Court on April 27,
5 2012. Plaintiff thereafter filed a Motion for Summary Judgment in the instant matter on June
6 5, 2012.

7 **CONCLUSIONS OF LAW**

8 On November 13, 2012, after the Honorable Douglas Smith in Department VIII,
9 reviewing all documents, and hearing oral arguments, the Court granted Plaintiff's Motion
10 for Summary Judgment, pursuant to NRS 179.1171(1), 179.1171(5) and 179.1156 to
11 179.121.

12 The Judgments of Conviction in the criminal cases have become final. The proof of
13 the facts necessary to sustain the conviction are, therefore, conclusive evidence in this
14 forfeiture action against DAIMON MONROE, BRYAN M. FERGASON, TONYA M.
15 TREVARTHEN, and ROBERT HOLMES, III, and satisfy all elements of the forfeiture
16 complaint.

17 As to Claimants MONROE and HOLMES, the money turned over pursuant to search
18 warrants was in the possession of their attorneys at the time of the seizure therefore they
19 have no possessory claim to the money.

20 As to Claimant FERGASON, the money was seized from his bank account as
21 proceeds from illegal activities.

22 As to Claimant TREVARTHEN, she agreed to forfeiture of any and all money seized
23 pursuant to negotiations in criminal case C228752 by way of a Guilty Plea Agreement filed
24 March 6, 2007.

25 In respect Claimant MONROE's allegations that they never received copies of the
26 search warrants at the time of the seizure of the proceeds by Las Vegas Metropolitan Police
27 Department. It has been confirmed by the Court that all Claimants were served with the
28 original search warrants, as well as being provided with filed copies of the search warrants at

1 a later date. Therefore, Claimant MONROE'S allegation that they never received copies of
2 the search warrants is inaccurate pursuant to the facts of the case.

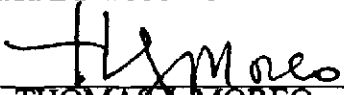
3 **ORDER**

4 THEREFORE, IT IS HEREBY ORDERED that the Motion for Summary Judgment
5 against Claimants DAIMON MONROE, aka Daimon Devi Hoyt, BRYAN M. FERGASON,
6 aka Bryan Michael Fergason, aka J.B., TONYA M. TREVARTHEN, aka Tonya Michelle
7 Trevarthen, , and ROBERT HOLMES, III, aka Bobby Holmes, aka Robert Holmes, shall be,
8 and it is, hereby granted.

9 DATED this 22nd day of November, 2012.

10 
11 DISTRICT JUDGE TG

12 STEVEN B. WOLFSON
13 Clark County District Attorney
14 Nevada Bar #001565

15 BY 
16 THOMAS J. MOREO
17 Chief Deputy District Attorney
18 Nevada Bar #002415

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25
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27
28 LVMPD EV#060924-0418; 061106-0453; 061122-1205; 061129-1719; 061207-1290;
061207-1538; 061214-1544; 070226-0684 /jd

INFORFEIT\ORDERS\2012\060924-0418 ET AL HOLMES MONROE FERGASON FINDINGSFACTCONCLUSION.doc

Alvin J. Quinn

CLERK OF THE COURT

OSCC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

LAS VEGAS METROPOLITAN

CASE NO.: 07A537416

POLICE DEPT

VS

DEPARTMENT 8

U S CURRENCY \$281,656.73

CIVIL ORDER TO STATISTICALLY CLOSE CASE

Upon review of this matter and good cause appearing,

IT IS HEREBY ORDERED that the Clerk of the Court is hereby directed to
statistically close this case for the following reason:

DISPOSITIONS:

- ☐ Other Manner of Disposition (Notice of Bankruptcy only)
- ☐ Voluntary Dismissal
- ☐ Transferred (before/during trial)
- ☐ Involuntary (statutory) Dismissal
- ☐ Judgment on Arbitration Award
- ☐ Stipulated Dismissal
- ☐ Stipulated Judgment
- ☐ Default Judgment
- ☐ Motion to Dismiss (by Defendant)
- ☒ Summary Judgment
- ☐ Non-Jury (bench) Trial
- ☐ Jury Trial

DATED this 3rd day of December, 2012.

D. E. Smith

DOUGLAS E. SMITH
DISTRICT COURT JUDGE

RECEIVED
DEC 06 2012
CLERK OF THE COURT

33

D. Monroe

- 1.)
- 2.)
- 3.) h.u.m.p. d
- 4.) -U.S.-plaintiff
- 5.) U.S. currency
- 6.) 281,656.23
- 7.) Defendant

Case No. 07A537416

Dept No. V 111

07A537416
NOAS
Notice of Appeal
2058073



FILED

DEC 07 2012

John L. Blum
CLERK OF COURT

Notice of Appeal

- 1.) Notice is hereby given that Daimon Monroe
- 2.) defendant above named hereby APPEALS to the Supreme
- 3.) Court of Nevada from the Final Judgment
- 4.) From the Order Motion For Summary Judgment
- 5.) entered in this action on the 27th day of November
- 6.) 2012

Dated this 3 day of December 2012

argument

- 1.) 2.) the court lacked Jurisdiction due
- 2.) to Supreme court case 61616 and was told
- 3.) that case was pending.
- 4.) 2.) The court Lied about defendants
- 5.) Receiving a search warrant on the day of
- 6.) Nov 6 2006, Its a lie to say anyone received
- 7.) a search warrant absolute lie
- 8.) 3.) The money's was taken from my home

1) Cash 14,000 dollars and 25,000 in my
2) Bank so He lied to say it was all taken
3) From my attorney, it was not,
4) 4.) Stewart Bell Siskind and Beck dated
5) those warrants for Sandra Disicorno and R.O.P
6) absolutely so the court lied and said we
7) were given the original that is a outright
8) Lie.
9) So we told the court that money's was taken
10) From our person's and not our attorney's
11) The court never addressed this, the court
12) was told of a pending appeal and the
13) Jurisdictional defects, And once again
14) There never was a warrant and we can
15) prove it, The court lied to say we ever
16) got the original it's a lie absolutely
17) 6.) The money's taken was not all taken from
18) my lawyers and the court did not address
19) this, nor the warrant, I can prove Beyond
20) a doubt that Stewart Bell Siskind and
21) Beck dated those for Sandra Disicorno
22) and R.O.P. we have a right to prove this
23) This money was Illegally taken we
24) have a right to prove that, The
25) Court lied to say we ever Received

- 1.) a warrant that's a lie, and the district ³
- 2.) Court lacked Jurisdiction to
- 3.) Rule Pending my appeal before this court

Respectfull

Submitted Dae

- 4.)
- 5.)
- 6.)
- 7.)
- 8.)
- 9.)
- 10.)
- 11.)
- 12.)
- 13.)
- 14.) Under penalty of perjury, Pursuant
- 15.) to M.R.S 208.165 Et Seq the undersigned
- 16.) declares he is the petitioner named above
- 17.) the contents thereof that the pleadings are
- 18.) true and correct to the best of his
- 19.) recollection.

20.)
21.) dated 12-3-12

Daimon Monroe

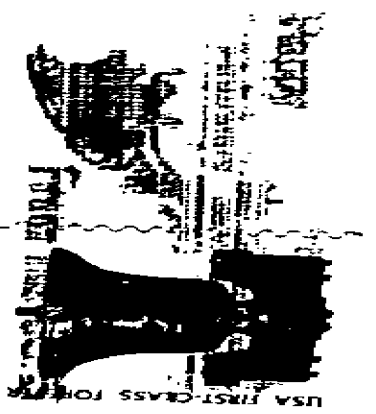
Donkoe #38299
H-D-S-P
P.O. Box 650
Indian Springs, Wv, 89070

Please send
P/O's Stamp
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P/O's Stamp

~~To Donkoe~~
To County Clerk
Regional Justice Center
200 Lewis Ave
Indian Springs, Wv, 89101

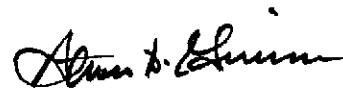
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Indian Springs, WV, 89101



CLERK OF THE COURT

ASTA

**DISTRICT COURT
CLARK COUNTY, NEVADA**

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT,

Plaintiff(s),

vs.

U.S. CURRENCY \$281,656.73,

Defendant(s).

Case No: 07A537416

Dept No: VIII

CASE APPEAL STATEMENT

1. Appellant(s): Daimon Monroe

2. Judge: Doug Smith

3. Appellant(s): Daimon Monroe

Counsel:

Daimon Monroe #38299
P.O. Box 650
Indian Springs, NV 89070

4. Respondent (s): Las Vegas Metropolitan Police Department

Counsel:

Steven B. Wolfson, District Attorney
200 Lewis Ave.
Las Vegas, NV 89155-2212

5. Respondent's Attorney Licensed in Nevada: Yes

6. Appellant Represented by Appointed Counsel In District Court: No

7. Appellant Represented by Appointed Counsel On Appeal: N/A

1
2 8. Appellant Granted Leave to Proceed in Forma Pauperis**: Yes, November 13, 2012
3 **Expires 1 year from date filed

4 9. Date Commenced in District Court: March 9, 2007

5 10. Brief Description of the Nature of the Action: Unknown

6 Type of Judgment or Order Being Appealed: Summary Judgment

7 11. Previous Appeal: Yes

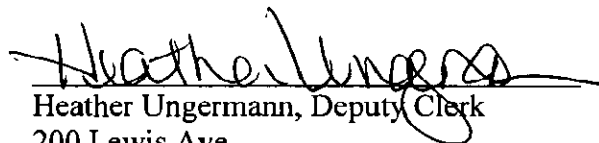
8 Supreme Court Docket Number(s): 60547, 60809, 61094, 61616

9 12. Child Custody or Visitation: N/A

10 13. Possibility of Settlement: Unknown

11 Dated This 10 day of December 2012.

12 Steven D. Grierson, Clerk of the Court

13
14 

15 Heather Ungermann, Deputy Clerk
16 200 Lewis Ave
17 PO Box 551601
18 Las Vegas, Nevada 89155-1601
19 (702) 671-0512
20
21
22
23
24
25
26
27
28

1 Robert Holmes III ^{bal} 1034184
2 In Propria Personam
3 Post Office Box 208, S.D.C.C.
4 Indian Springs, Nevada 89018

Please
send stamp
File copy
FILED

DEC 10 2012

John J. Williams
CLERK OF COURT

5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 *Las Vegas Metropolitan Police*
9 *Department*

10 Plaintiff,

11 vs.

12 *U.S. Currency #281,656.73*
13 *Robert Holmes III*
14 Defendant.

07A537416
NOAS
Notice of Appeal
2080890



Case No. 07A537416

Dept. No. VIII

Docket _____

15
16 **NOTICE OF APPEAL**

17 NOTICE IS HEREBY GIVEN, That the Petitioner/Defendant,
18 Robert Holmes III, in and through his proper person, hereby
19 appeals to the Supreme Court of Nevada from the ORDER denying and/or
20 dismissing the

21 Opposition to Plaintiff's being Granted Summary
22 Judgment

23 ruled on the 13 day of November, 20 12.

24
25 Dated this 30 day of November, 20 12

26 Respectfully Submitted,

27 Robert Holmes III
28

Robert Holmes 1034184
Petitioner/In Propria Persona
Post Office Box 208, SDCC
Indian Springs, Nevada 89070-0208

IN THE Eighth JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF Clark

Las Vegas Metropolitan
Police Department
State of Nevada

Plaintiff,

vs.

CASE No. 07A537416

DEPT.No. VIII

U.S. Currency #88145473
Defendant.

Robert Holmes III

DESIGNATION OF RECORD ON APPEAL

TO: D.A. Office
District Attorney
Steve Wolfson
Forfeiture Unit 200
Lewis Avenue, P.O. Box 552212
Las Vegas Nevada 89155

The above-named Robert Holmes III hereby designates the entire record of the above-entitled case, to include all the papers, documents, pleadings, and transcripts thereof, as and for the Record on Appeal.

DATED this 30 day of November, 20 12.

RESPECTFULLY SUBMITTED BY:

Robert Holmes III

Robert Holmes # 1034184

Defendant In Propria Persona

CERTIFICATE OF SERVICE BY MAILING

I, Robert Holmes III, hereby certify, pursuant to NRCP 5(b), that on this 30
day of November, 20 12 I mailed a true and correct copy of the foregoing, "Notice
of Appeal for opposition to plaintiff's being granted
summary Judgment"
by placing document in a sealed pre-postage paid envelope and deposited said envelope in the
United State Mail addressed to the following:

D.A. Office District
Attorney STEVEN WALSON
Forfeiture Unit 800 Lewis
Avenue P.O. Box 552212
Las Vegas Nevada 89155

CC:FILE

DATED: this 30 day of November, 20 12.

Robert Holmes III
Robert Holmes III # 1034184
/In Propria Personam
Post Office Box 208, S.D.C.C.
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Notice

of Appeal for opposition to plaintiffs being Granted
(Title of Document) Summary Judgment

filed in District Court Case number 07A537416

☒ Does not contain the social security number of any person.

-OR-

☐ Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

(State specific law)

-or-

B. For the administration of a public program or for an application
for a federal or state grant.

Robert Holmes III
Signature

11-30-2012
Date

Robert Holmes III
Print Name

Pro se
Title

Robert Holmes III 1034184
SDCC P.O. Box 208
Indian Springs Nevada 89070

9763

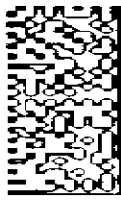
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Steven D. Grierson

Clerk of the Court

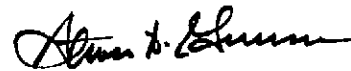
200 Lewis Avenue, 3rd Floor

Las Vegas NV 89155-1160

LEGAL MAIL

89101630000





CLERK OF THE COURT

ASTA

**DISTRICT COURT
CLARK COUNTY, NEVADA**

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT,

Plaintiff(s),

vs.

U.S. CURRENCY \$281,656.73,

Defendant(s).

Case No: 07A537416
Dept No: VIII

CASE APPEAL STATEMENT

1. Appellant(s): Robert Holmes, III

2. Judge: Doug Smith

3. Appellant(s): Robert Holmes, III

Counsel:

Robert Holmes, III #1034184
P.O. Box 208
Indian Springs, NV 89070

4. Respondent (s): Las Vegas Metropolitan Police Department

Counsel:

Steven B. Wolfson, District Attorney
200 Lewis Ave.
Las Vegas, NV 89155-2212

5. Respondent's Attorney Licensed in Nevada: Yes

6. Appellant Represented by Appointed Counsel In District Court: No

7. Appellant Represented by Appointed Counsel On Appeal: N/A

1
2 8. Appellant Granted Leave to Proceed in Forma Pauperis**: Yes, June 21, 2012
3 **Expires 1 year from date filed

4 9. Date Commenced in District Court: March 9, 2007

5 10. Brief Description of the Nature of the Action: Unknown

6 Type of Judgment or Order Being Appealed: Summary Judgment

7 11. Previous Appeal: Yes

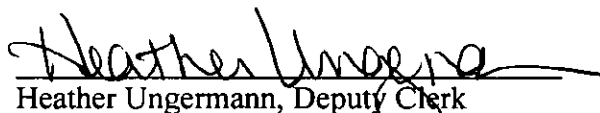
8 Supreme Court Docket Number(s): 60547, 60809, 61094, 61616

9 12. Child Custody or Visitation: N/A

10 13. Possibility of Settlement: Unknown

11 Dated This 11 day of December 2012.

12 Steven D. Grierson, Clerk of the Court

13
14 
15 Heather Ungermann, Deputy Clerk
16 200 Lewis Ave
17 PO Box 551601
18 Las Vegas, Nevada 89155-1601
19 (702) 671-0512
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1 ROBERT HOLMES III - 1034164
2 In Propria Personam
3 Post Office Box 208, S.D.C.C.
4 Indian Springs, Nevada 89018

FILED
DEC 18 2012
Clerk of Court

5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

07A537416
NOAS
Notice of Appeal
2083700



7
8 LAS VEGAS METROPOLITAN POLICE
9 DEPARTMENT

10 Plaintiff,

11 vs.

12 ROBERT HOLMES III, POORER OF \$
13 781,656.73 SUM OF \$ 70,000.00
Defendant.

Case No. 07A-537416

Dept. No. VIII

Docket _____

14
15 "FIRST PAGO SE AVENIR NOTICE OF APPEAL AND PETEAL STATEMENT"

16 NOTICE IS HEREBY GIVEN, That the Petitioner/Defendant,

17 ROBERT HOLMES III, in and through his proper person, hereby
18 appeals to the Supreme Court of Nevada from the ORDER GRANTING THE
19 PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT.
20

21
22
23 ruled on the 13 day of NOVEMBER, 20 12

24
25 Dated this 5 day of DECEMBER, 20 12

26 Respectfully Submitted,

27 (X) Robert Holmes III
28

ROBERT HOLMES, III.
P.O. BOX 208
INDIAN SPRINGS NEVADA 89070
1034164
IN PROPER PERSON

DISTRICT COURT
CLARK COUNTY, NEVADA
* * *

ROBERT HOLMES, III. CASE NO. 07-A-537416
UNITED STATES CURRENCY, \$ 70,000. DEPT NO. VIII
DEFENDANTS
- VS -
LAS VEGAS METROPOLITAN POLICE
DEPARTMENT,
PLAINTIFF. /

PROPER PERSON APPEAL STATEMENT.

THE PROPER PERSON DEFENDANT ROBERT HOLMES, III.
DEMANDS THAT THIS PROPER PERSON APPEAL STATEMENT BE
VIEWED BY THIS COURT UNDER THE LEGAL PRINCIPALS FOUND
IN HAYS V. KERNER, 404 US 519 (1972) THE DEFENDANT
IS WITHOUT COUNSEL AND FUNDS TO SECURE A COUNSEL TO
DEFEND THIS LITIGATION, THIS DEFENDANT ROBERT HOLMES
IS A LAY PERSON IN LAW AND ENJOYS A LIMITED EDUCATION
THEREFORE IN THE BEST INTEREST OF JUSTICE AND TO ENSURE THIS
DEFENDANT ENJOYS THE FUNDAMENTAL FAIRNESS IN WHICH THE
UNITED STATES CONSTITUTION PROVIDES THIS COURT SHOULD APPOINT
COUNSEL TO ASSIST THIS DEFENDANT. (SEE: LEWIS V. CASEY, 318 US 343)

1 OF 11

A.) "THE EIGHTH JUDICIAL DISTRICT COURT LACKED JUDICIAL JURISDICTION TO ENTERTAIN THIS PLAINTIFF'S CIVIL COMPLAINT FOR FORFEITURE". (SEE: DAVIS V. F.E.C. 128 S. CT. 2755 (2008)).

THE PLAINTIFF'S COMPLAINT FOR FORFEITURE IS WITHOUT STANDING PURSUANT TO N.D.S. CHAPTER 453 ET SEQ. THE PLAINTIFF HAS SHOWN THIS COURT NO CLAIM THAT THE SUM OF \$ 70,000.00 IN WHICH DEFENDANT'S COUNSEL SEAN P. SULLIVAN (ESQ), FRAUDULENTLY PROVIDED TO GOVERNMENT AGENTS DERIVED FROM AN ATTEMPT OR A ACTUAL CRIME.

THE PLAINTIFF MAKES THE CLAIM THAT CO-DEFENDANT, TONYA M. TREVAETHEN, WITHDRAW LARGE AMOUNTS OF CASH FROM HER PERSONAL BANK ACCOUNT. IT IS ALLEGED THAT UPON THE ARREST OF TONYA M. TREVAETHEN, DURING A INTERROGATION PROCESS, TONYA M. TREVAETHEN WITHOUT COUNSEL'S ADVICE OR PRESENCE ALLEGEDLY ADMITTED THAT SHE GAVE LARGE AMOUNTS OF CASH TO ROBERT HOLMES III.

THE PLAINTIFF "FATAL FLAW" IN THIS CLAIM DOES NOT ALLEGED ANY ACTUAL DATES IN WHICH THIS TRANSACTION OR TRANSACTIONS WERE SUPPOSED TO OCCURE, THE STATEMENT OF LARGE AMOUNTS OF CASH IS VAGUE AND OVER-BROAD WHICH DOES NOT PROVIDE ROBERT HOLMES III, A FULL AND FAIR NOTICE IN WHICH TO DEFEND.

THE COURT LACK JURISDICTION AT THE OUT-SET. (SEE: MURDOCK V. CALIFORNIA 858 F 2d 1376-1380 (9TH CIR 1988) (SEE: JORDON V. DIRECTOR, 101 N.W. 146 (1985) FOR THE ALLEGED FUNDS WERE NEVER SEIZED.. THE SEARCH WARRANTS DID NOT RECOVER THESE PROCEEDS THEREFORE THE PLAINTIFFS ARE VIOLATING THE "CONNERSTON LAW" FOR ROBERT HOLMES III HAS DEMANDED THE PLAINTIFF TO RETURN HIS FUNDS WHICH THEY REFUSE.

2 OF 11

B.) "THE DEFENDANT ROBERT HOLMES, III MAKE
STANDING TO CONTEST THE FORFEITURE OF
A PORTION OF THE, \$1 281,656.73."

THE DEFENDANT ROBERT HOLMES, III. IS IN FACT THE
ACTUAL OWNER OF A PORTION OF THE, \$1 281,656.73
TO WCT, A TOTAL SUM OF, \$1 70,000.00. (SEE: UNITED
STATES V. FIFTEEN THOUSAND FIVE HUNDRED DOLLARS, 558 F.2d
1359, 1360 (9TH CIR 1977). THE DEFENDANT ROBERT HOLMES,
III. ALLEGES A PERSONAL STR. TO THE OUT COME OF THE
FORFEITURE PROCEEDINGS. (SEE: WESTERN MOUNTING COUNSEL V. WATT,
643 F.2d 618, 623 (9TH CIR 1981)).

THE DEFENDANT ROBERT HOLMES, III. HAS ALWAYS MADE A
CLEAR OWNERSHIP TO THE PORTION OF THE, \$1 281,656.73 HERE
IN AND ALL BEHIND WHICH THE DEFENDANT ROBERT HOLMES, III,
FUNDS ARE TOTALLY SEPARATE TO THE FUND SETTED BY THE
PLAINTIFF IN COMPLIANCE TO A LEGAL SEARCH WARRANT. THE
PORTIONS OF FUNDS IN WHICH THE DEFENDANT ROBERT HOLMES III
MAKES ABSOLUTE CLAIM TO, IE, \$1 70,000. IS NOT A PART OF ANY
SEARCH WARRANT ISSUED TO CO-DEFENDANTS DAVIDSON MORRIS,
BRYAN M. FERGUSON, AND TONNA TREVAZZEN. (SEE: JENKINS V.
MCKEITHEN, 395 US 411, 422 (1969)).

THE DEFENDANT ROBERT HOLMES III IS A ACTUAL CLAIMANT TO A
PORTION OF THE, \$1 281,656.73. IN THE SUM OF, \$1 70,000. (SEE:
UNITED STATES V. ONE 56 FOOT YACHT NAMED TAHUNA, 702 F.2d 1276, 1279
(9TH CIR 1983) AND HE IS THE SOLE CLAIMANT TO THE SUM OF \$1 70,000
A PORTION OF, \$1 281,656.73. (SEE: BAKER V. US, 722 F.2d 517 (1983))

3 OF 11

THE DEFENDANT ROBERT HOLMES, III HAS ALLEGED SPECIFIC PROPERTY INTEREST IN A PORTION OF THE \$1 281,656.73 IN THE SUM OF \$1 70,000. THE DEFENDANT ROBERT HOLMES III, HAS NEVER ABANDON HIS PERSONAL INTEREST IN THE OF \$1 70,000.00 IN WHICH HE PERSONALLY HANDED TO HIS ATTORNEY WHO HAD BEEN RETAINED TO ACT IN THE DEFENDANT ROBERT HOLMES III, BEHALF.

THE DEFENDANT ROBERT HOLMES III, OUT OF FEAR REBORROWED A SUM OF \$1 70,000.00 FROM FAMILY, FRIENDS, AND FINANCIAL INSTITUTIONS IN WHICH HE HANDED THIS SUM TO SEAN P. SULLIVAN ESQ UNDER THE FRAUDULENT BELIEF THAT THE FEDERAL BUREAU OF INVESTIGATION WOULD SEIZE THE PROPERTIES OF FAMILY MEMBERS.

(.)" THE EIGHTH JUDICIAL DISTRICT COURT JUDGE DOUGLAS E. SMITH
ERRORED WHEN HE GRANTED THE PLAINTIFF SUMMARY
JUDGMENT AS IT RELATES TO DEFENDANT ROBERT HOLMES
III, AND HIS CLAIMED PORTION OF \$1 281,656.73 TO
WIT, \$1 70,000.00 WHICH WAS NOT SEIZED BY A SEARCH
WARRANT."

DIRECT AND PER SE ABUSE OF DISCRETION WHEN DISTRICT COURT JUDGE DOUGLAS E. SMITH, VIOLATED WELL ESTABLISHED LAW WHEN DISTRICT COURT DOUGLAS E. SMITH, RULED THAT THE DEFENDANT DID NOT HAVE ANY PERSONAL INTEREST IN THE \$1 70,000.00 IN WHICH WAS PROVIDED TO HIS RETAINED COUNSEL SEAN P. SULLIVAN ESQ FROM DEFENDANT ROBERT HOLMES, III, ALLOWING THE DEFENDANT HIS PERSONAL INTEREST

4 OF 11

IN THE FUNDS IN WHICH THE DEFENDANT ROBERT HOLMES III PROVIDED TO THE HANDS OF HIS RETAINED COUNSEL SEAN P. SULLIVAN ESQ. (SEE: UNITED STATES V ONE 56-FOOT YACHT NAMED TAHUNA, 702 F.2d 1276, 1279 (9TH CIR 1983)).

THE DEFENDANT ROBERT HOLMES III, STATES THESE FUNDS DID NOT DERIVE FROM ANY ILLEGAL ACTIVITIES, THESE FUNDS WERE ACTUALLY BORROWED FROM FAMILY, FRIENDS, AND FINANCIAL INSTITUTIONS IN ORDER TO SATISFY THE REQUEST MADE BY THE DEFENDANT ROBERT HOLMES III RETAINED COUNSEL.

THE DISTRICT COURT JUDGE DOUGLAS E. SMITH, COMMITTED A ERROR IN LAW WHEN IT RULED THAT ALL ESSENTIAL ELEMENTS TO SUPPORT A FORTFECTURE PROCEEDINGS AGAINST DEFENDANT ROBERT HOLMES III WAS MET. . FOR THE ESSENTIAL KEY ELEMENT IS TO SHOW THE PERSONAL PROCEED OF DEFENDANT ROBERT HOLMES III, TO WITH THE SUM OF \$1 70,000. 00 IN WHICH HIS ATTORNEY SEAN P. SULLIVAN, WAS FRAUDULENTLY INDUCED TO RELINQUISH SAID FUND TO THE FEDERAL BUREAU OF INVESTIGATION, WAS PROCEEDS WHICH STEAL FROM ILLEGAL ACTIVITY.

THE EIGHTH JUDICIAL DISTRICT COURT JUDGE DOUGLAS E. SMITH, FAILED TO MAKE A "NEEDED CONNECTION" TO THE PROCEEDS WHICH WAS PROVIDED TO THE HANDS OF RETAINED COUNSEL SEAN P. SULLIVAN BY DEFENDANT ROBERT HOLMES III, WERE PROCEEDS WHICH DERIVED FROM A ILLEGAL ACTIVITY THEREFORE WITHOUT SUCH A ESSENTIAL CONNECTION THERE IS A FATAL FLAW.

5 OF 11

D.) " THE EIGHTH JUDICIAL DISTRICT COURT JUDGE DOUGLAS E. SMITH, WITH MALICE AND FORETHOUGHT IGNORED THE WELL ESTABLISHED LAW WHICH ADDRESSES A RECONSIDERATION PLEADING.

THE PLAINTIFF'S MOTION FOR RECONSIDERATION IS UNTIMELY WAS NOT PROPERLY BEFORE THE COURT, THE PLAINTIFF'S MOTION FOR RECONSIDERATION SHOULD HAVE BEEN DENIED, FOR THE COURT ORDERED A STAY OF THE FORFEITURE PROCEEDINGS MAY 16, 2007.

THE COURT ORDERED THE STAY WOULD BE LIFTED AS A MATTER OF LAW UPON THE FINAL RESOLUTION OF CRIMINAL CASE NO. C-20 8321 BY TRIAL OR BY NEGOTIATION AND SUCH STAY SHALL BE AUTOMATICALLY LIFTED AND THE FORFEITURE PROCEEDINGS MAY RESUME.

SUCH WAS THE ORDER OF DISTRICT COURT JUDGE STEWART BELL AND PURSUANT TO D.C.R. 18.1 ANOTHER JUDGE EXCEEDS HIS JUDICIAL AUTHORITY IF THAT JUDGE RE-VESTS ANOTHER JUDGE'S ORDER WITHOUT THE REQUEST OF THE JUDGE THAT ISSUED THE ORDER. (SEE: N.I.R.S. 3.220) (SEE: N.I.R.S. 177.015 (1)(b)) / (SEE: WARDEN V OWENS 93 NEV. 255 (1977)) (SEE: ROHLFSTON V 2ND DIST CT, 803 659 (NEV 2001)).

E.) " THE DEFENDANT ROBERT HOLMES III, DISPUTES IN GOOD FAITH THAT ON APRIL 24, 2007, HE AGREED TO A JOINT MOTION TO STAY, FOR THE SUM OF \$ 70,000.00 WAS NOT SETTLED WITH A SEARCH WARRANT AND SUCH WAS NOT VOLUNTARILY SURRENDERED.

ROBERT HOLMES III, STATES THAT HE ABSOLUTELY DISPUTE THE CLAIM THAT TONYA M. TREVARTHEN, EVER GAVE THIS PERSON ANY FUNDS.

THE CLAIMANT ROBERT HOLMES III, DID NOT PROTECT FROM THE ILLEGAL ACTIVITIES IN WHICH BRYAN FERGUSON, TONYA M. TREVARTHEN, AND OR PATMON MONROE WAS ALLEGED TO BE INVOLVED IN.

THE CLAIMANT ROBERT HOLMES III, STATES THAT THE SUM OF 70,000.00 DERIVED FROM FAMILY, FRIENDS, AND FINANCIAL INSTITUTIONS IN A DIRECT ATTEMPT TO WARD OFF THE FEDERAL BUREAU OF INVESTIGATORS WHICH CLAIM TO HAVE LEGAL AUTHORITY TO SEIZE THIS CLAIMANT'S FAMILY PROPERTIES.

THE CLAIMANT LATER LEARNED THAT THE SUM OF \$ 70,000.00 DOLLARS WAS SEIZED UNDER FRAUDULENT TERMS THEREFORE THIS CLAIMED FORFEITURE COMPLAINT MUST BE DISMISSED AS IT RELATES TO ROBERT HOLMES III, AND THE SUM OF \$ 70,000.00 DOLLARS OF UNITED STATES CURRENCY, FOR SUCH AMOUNT WAS NOT SEIZED PURSUANT TO A LAWFUL SEARCH WARRANT. (SEE: JONES V. UNITED STATES 362 US 257 (1960)).

THERE WAS NEVER A LAWFUL SEIZURE OF ANY UNITED STATES CURRENCY PURSUANT TO A LAWFUL SEARCH WARRANT SERVED UPON ROBERT HOLMES III, THEREFORE THE ILLEGALLY HELD SUM OF \$ 70,000.00 MUST BE RETURNED TO THIS CLAIMANT ROBERT HOLMES III, FOR SUCH CAN NOT BE MADE A LEGAL PART OF THE COMPLAINT FOR FORFEITURE FOR SUCH DID NOT DERIVE FROM ANY ILLEGAL ACTIVITY WHICH IS PROVEN BY MORE THAN A STATES WITNESS.

7 OF 11

F. 1" THE DISTRICT COURT JUDGE DOUGLAS E. SMITH WAS MISLED BY THE STATEMENT WHICH WAS TOTALLY INCONSIDERATE AND SUCH STATEMENT ALLOWED THE DISTRICT COURT JUDGE TO ENTER A PROUD RESULT.

ROBERT HOLMES III, HAD RETAINED COUNSEL IN CASE NO. C-208321, I.E., SEAN P. SULLIVAN, ESQ., AND UNDER WELL ESTABLISHED SUPREME COURT AUTHORITY IT IS THE ACCUSED NOT COUNSEL WHO IS FACING THE ALLEGED CRIME. (SEE: STRICKLAND V. WASHINGTON, 466 US 668 (1984) (SEE: GOODEN V. WATKINS, 372 US 335 (1963)).

ROBERT HOLMES III'S COUNSEL SEAN P. SULLIVAN ESQ UNDER FALSE PRETENSE PROVIDED GOVERNMENT AGENTS THE SUM OF \$170,000.00 OF MONIES IN WHICH BELONGS SOLELY TO ROBERT HOLMES III, AND AT NO TIME HEREIN OR THEREAFTER DID THESE FUNDS BELONG TO SEAN P. SULLIVAN ESQ. THEREFORE ROBERT HOLMES III, MAINTAINED A PERSONAL INTEREST IN THE FUNDS AT ALL TIMES FOR ATTORNEY SEAN P. SULLIVAN WAS ACTING IN BEHALF OF ROBERT HOLMES III.

THERE WAS NO SEIZURE OF FUNDS PURSUANT TO THE LAWFUL SEARCH WARRANTS SERVED UPON ROBERT HOLMES III, THE FUNDS OF \$1211,656.73 WERE SEIZED DURING LAWFUL SEARCHES OF, DARMON MONROE, BRYAN FERGASON, TONYA M. TREVARTHEN... THE ADDITIONAL, SUM OF \$170,000.00 WAS ILLEGALLY CONFISCATED AND ILLEGALLY COMBINED TO THE GRAND TOTAL OF \$1281,656.73 FOUND IN THE COMPLAINT FOR FORFEITURE, THE ILLEGALLY CONFISCATED FUNDS OF \$170,000.00 WAS PERSONAL FUNDS BELONGING TO ROBERT HOLMES AND DID NOT DERIVE FROM ANY ILLEGAL ACTIVITY IN WHICH FORFEITURE PROCEEDING IS AUTHORIZED AS A MATTER OF LAW.

8 OF 11

6.) "THE PLAINTIFF MUST FAIL ON THEIR MOTION FOR SUMMARY JUDGMENT FOR THERE IS A MATERIAL ISSUE OF FACT TO BE TRIED". (SEE: RICHARD V. CONKLIN, 94 NEW. 84 (1978))

THE SUM OF \$ 70,000.00. WAS NOT SETTLED DURING A LAWFUL SEARCH WARRANT... THE LAWFUL SEARCH WARRANTS WHICH WAS SERVED UPON ROBERT HOLMES III, DID NOT SETTLE ANY UNITED STATES (CURRENCY).

ROBERT HOLMES III, RETAINED COUNSEL TO ASSIST IN DEFENDING THE REGULAR CRIMES IN WHICH THIS ACCUSED WAS ALLEGED TO HAVE TAKEN PART IN... THROUGH FAMILY, FRIENDS, AND SEVERAL FINANCIAL INSTITUTIONS ROBERT HOLMES III, HANDED SEAN P. SULLIVAN ESQ A SUM OF \$ 70,000.00.

ROBERT HOLMES III, STATES TO THIS COURT THAT FACT IS UNDISPUTED THEREFORE THE PLAINTIFF HAS NO LEGAL CLAIM TO THE SUM OF 70,000.00 FOR SUCH WAS NEVER SETTLED THROUGH LEGAL CHANNELS WHICH LEAVES NO MATERIAL ISSUE OF FACT IN WHICH THE PLAINTIFF CAN TRY... THEREFORE THIS COURT MUST DENY THE PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT FOR LACK OF STANDING.

THIS COURT MUST GRANT SUMMARY JUDGMENT TO ROBERT HOLMES III, ONLY AS IT RELATES TO THE SUM OF \$ 70,000.00 FOR THE PLAINTIFF HAS ILLEGALLY CONFISCATED THOSE FUNDS... AND ROBERT HOLMES III IS THE LEGAL OWNER OF SAID FUNDS AND THE CRIME OF CONVERSION BY THE PLAINTIFF HAS OCCURRED FOR ROBERT HOLMES III DEMANDS THE RETURN OF SAID FUNDS AND THE PLAINTIFF REFUSE SUCH IS A MANIFEST OF JUSTICE AND THIS COURT MUST INTERVENE AND ORDER THE RETURN OF THE SUM OF \$ 70,000.00 TO ROBERT HOLMES III, PLUS INTEREST FORTHWITH. (SEE: FIRST NAT BANK V CITE, 88 S. 1575)

9 OF 11

III.)

CONCLUSION.

THE DEFENDANT ROBERT HOLMES III, IS THE SOLE OWNER OF THE SUM OF \$ 70,000.00. IN WHICH THE PLAINTIFF ILLEGALLY INCLUDED IN THE AMOUNTS IN WHICH WERE SEIZED FROM, DARMON MONROE, BRYAN FERGASON, TONYA M. TREVARTHEN, PURSUANT TO A LAMIFUL SEARCH WARRANT.

THE SEARCH WARRANT WHICH WAS LAW FULLY SERVED UPON THE RESIDENT OF ROBERT HOLMES III, OR ANY PROPERTY IN WHICH ROBERT HOLMES III, WAS ATTACHED TO DID NOT RETRIEVE ANY UNITED STATES CURRENCY.

THE CLAIM THAT ROBERT HOLMES III, PERSONAL ATTORNEY SEAN P. SULLIVAN ESQ VOLUNTARILY SURRENDERED THE SUM OF \$1 70,000.00 TO A UNKNOWN GOVERNMENT AGENCY POSING AS AGENTS OF THE FEDERAL DEPTSON I.C.E. CAN NOT BECOME A CLAIM OF ILLEGALLY GOTTEN PROCEEDS .. NOR IS THERE ANY GROUNDS TO SEEK A FORFEITURE PROCEEDINGS

THE FUNDS IDENTIFIED AS THE SUM OF \$1 70,000.00 HAVE BEEN CONFISCATED ILLEGALLY AND NOW THE PLAINTIFF SEEKS TO MISLED THE COURT BY CLAIM SUCH IN A FORFEITURE COMPLAINT. THIS COURT HAS FAILED TO DEMAND A CONNECTION TO A CRIME AND THIS \$1 70,000.00 THEREFORE THIS COURT HAS COMMITTED PER SE ABUSE OF DISCRETION. (SEE: KOON V. UNITED STATES, 116 S. CT 2035 (1996) AND AS IT RELATES TO ROBERT HOLMES III, PLAINTIFF'S SUMMARY JUDGMENT MOTION IS DENIED AND THE COURT GRANTS SUMMARY JUDGMENT TO DEFENDANT ROBERT HOLMES III, AND ORDER THE PLAINTIFF TO RETURN THE SUM OF \$1 70,000.00 PLUS INTEREST AND ATTORNEY FEES AND COURT COST FORTHWITH TO ROBERT HOLMES III AT POST OFFICE BOX 208 UNION SPRINGS, NEVADA 89020 AND ALL FUTURE ACTIONS ARE BARRED PURSUANT TO N.R.CIV.P. 41(e),

10 OF 11

1 WHEREFORE, DEFENDANT, prays that the court grant ALL OF THE
2 relief to which he may be entitled in this proceeding.

3 EXECUTED at S.D.C.C.
4 on the 1 day of DECEMBER, 2012.

5
6 
7 Signature of Petitioner

8 **VERIFICATION**

9 Under penalty of perjury, pursuant to N.R.S. 208.165 et seq., the undersigned declares that he is
10 the Petitioner named in the foregoing petition and knows the contents thereof; that the pleading is
11 true and correct of his own personal knowledge, except as to those matters based on information and
12 belief, and to those matters, he believes them to be true.

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14 
15 Signature of Petitioner

16
17 DEFENDANT
18 Attorney for Petitioner

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28 11 OF 11

EXHIBIT

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CLERK OF THE COURT

COMP
DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
RANDALL F. WEED
Chief Deputy District Attorney
Nevada Bar #000082
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT,

Plaintiff,

-vs-

U.S. CURRENCY \$281,656.73,

Defendant.

Case No. AJ37416

Dept No. VII

Priority Civil NRS 179.1173

Arbitration Exemption
Declaratory Relief NRS 30.030

COMPLAINT FOR FORFEITURE

Plaintiff alleges as follows:

I

This is a civil action for the forfeiture of Defendant U.S. CURRENCY pursuant to the provisions of NRS 179.1173, 179.1164(1a).

II

Plaintiff is a Metropolitan Police Department organized under the laws of Chapter 280 of the Nevada Revised Statutes, and officers of Plaintiff seized the Defendant U.S. CURRENCY sought to be forfeited herein.

III

That the only known prospective claimants to Defendant U.S. CURRENCY are DAIMON MONROE, (aka Daimon Devi Hoyt), whose last known address is 1504 Cutler Drive, Las Vegas, Nevada, 89117, BRYAN M. FERGASON, (aka Bryan Michael Fergason,

EXHIBIT 1

1 aka J.B.), whose last known address is 7400 Pirates Cove Road, #220, Las Vegas, Nevada,
2 89145, TONYA M. TREVARTHEN, (aka Tonya Michelle Trevarthen), whose last known
3 address is 1504 Cutler, Las Vegas, Nevada, 89117, and ROBERT HOLMES, III, (aka Bobby
4 Holmes aka Robert Holmes), whose last known address is 6177 Risepine Ct., Las Vegas,
5 Nevada 89110.

6 FIRST CAUSE OF ACTION
7 (179.1164(1))

8 I

9 On or between the 22nd day of November, 2006, and the 26th day of February, 2007,
10 while in the County of Clark, State of Nevada, the Defendant U.S. CURRENCY
11 \$281,656.73 was recovered from the actual and/or constructive possession of potential
12 claimants DAIMON MONROE (aka Daimon Devi Hoyt), BRYAN M. FERGASON (aka
13 Bryan Michael Fergason, aka J.B.), TONYA M. TREVARTHEN (aka Tonya Michelle
14 Trevarthen) and ROBERT HOLMES, III (aka Bobby Holmes, aka Robert Holmes) under
15 circumstances which would indicate that the said potential claimants had engaged in conduct
16 in violation of 179.1164(1a), and that said Defendant U.S CURRENCY \$281,656.73
17 represents proceeds attributable to the commission or the attempted commission of a felony,
18 to wit: BURGLARY (NRS 205.060) and/or GRAND LARCENY (NRS 205.220) and/or
19 POSSESSION OF STOLEN PROPERTY (NRS 205.275) and said U.S. CURRENCY is,
20 therefore, subject to forfeiture. The circumstances referred to herein include, but are not
21 limited to the following, to wit:

22 On September 24, 2006, officers of the Las Vegas Metropolitan Police Department
23 responded to a burglary call at 9837 West Tropicana in Las Vegas, Clark County, Nevada.
24 There they apprehended DAIMON MONROE, (aka Daimon Devi Hoyt) and BRYAN M.
25 FERGASON (aka Bryan Michael Fergason, aka J.B.) in a white Plymouth van with stolen
26 property inside the vehicle.

27 On September 24, 2006, as the result of an extended investigation, search warrants
28 were served at 15004 Cutler Drive, Las Vegas, Nevada, 89117. Officers found an enormous
amount of suspected stolen property. DAIMON MONROE, (aka Daimon Devi

1 Hoyt), BRYAN FERGASON, (aka Bryan Michael Fergason, aka J.B.) TONYA M.
2 TREVARTHEN, (aka Tonya Michelle Trevarthen), and ROBERT HOLMES, III (aka
3 Bobby Holmes, aka Robert Holmes) were charged with six (6) counts of Felony Possession
4 of Stolen Property and one (1) count of Conspiracy to Possess Stolen Property.

5 Between September 24, 2006, and October 23, 2006, police officers monitored
6 telephone calls to and from inmate DAIMON MONROE. (aka Daimon Devi Hoyt).
7 Through these conversations between DAIMON MONROE, (aka Daimon Devi Hoyt),
8 BRYAN FERGASON, (aka Bryan Michael Fergason, aka J.B.) TONYA M.
9 TREVARTHEN, (aka Tonya Michelle Trevarthen), and ROBERT HOLMES III, (aka
10 Bobby Holmes aka Robert Holmes), the officers learned that these persons had been and
11 were continuing to be involved in burglary, theft, and the storage of stolen property with use
12 of a specially manufactured hand tool, to gain entry into businesses without damaging the
13 locking mechanisms. These persons referred to this tool as "Matthew" during their
14 conversations.

15 Through information derived from these telephone conversations and through other
16 means of investigation, officers learned of residences and storage units under the control of
17 DAIMON MONROE, (aka Daimon Devi Hoyt), BRYAN FERGASON, (aka Bryan
18 Michael Fergason, aka J.B.), TONYA M. TREVARTHEN, (aka Tonya Michelle
19 Trevarthen), and ROBERT HOLMES III, (aka Bobby Holmes aka Robert Holmes).

20 Beginning on November 6, 2006, the officers executed search warrants at the
21 following addresses in Las Vegas, Clark County, Nevada: 1504 Cutler Drive, 7400 Pirates
22 Cove #220, 8100 W. Charleston A138, 5900 Smoke Ranch #174, 3250 North Buffalo #247
23 and #253, and 8265 West Sahara B106.

24 During these searches the officers were overwhelmed with high value stolen property.
25 The officers spent many hours researching serial numbers and property descriptions of
26 hundreds of stolen items to locate the legitimate owners. Simply transporting the stolen
27 property was an enormous undertaking. The officers estimated that the accumulated value of
28 the stolen property under the control of DAIMON MONROE, (aka Daimon Devi Hoyt),

1 BRYAN FERGASON, (aka Bryan Michael Fergason, aka J.B.), TONYA M.
2 TREVARTHEN, and ROBERT HOLMES III, (aka Bobby Holmes aka Robert Holmes)
3 amounted to several hundreds of thousands of dollars and possibly over one million dollars.

4 During the search of the residence at 1504 Cutler Drive, Las Vegas, Clark County,
5 Nevada, officers found U.S. CURRENCY \$13,825.00, mostly in \$100 bills, hidden inside
6 oven mitts. An additional U.S. CURRENCY \$1,040.22 in loose and rolled U.S. coins was
7 also found at that location. Through further investigation, officers learned of bank accounts
8 under the control of BRYAN FERGASON (aka Bryan Michael Fergason, aka J.B.), and
9 TONYA M. TREVARTHEN (aka Tonya Michelle Trevarthen). On November 22, 2006,
10 officers presented search and seizure warrants and seized U.S. CURRENCY \$124,216.36
11 from the account of BRYAN FERGASON, (aka Bryan Michael Fergason, aka J.B.), and
12 U.S. CURRENCY \$26,938.64 from the account of TONYA M. TREVARTHEN, (aka
13 Tonya Michelle Trevarthen) at Bank of America.

14 Additional investigation revealed that TONYA M. TREVARTHEN, (aka Tonya
15 Michelle Trevarthen) had been withdrawing large amounts of cash from her accounts.
16 Officers received voluntary admissions from TONYA M. TREVARTHEN, (aka Tonya
17 Michelle Trevarthen) after she was advised of her rights pursuant to the Miranda decision.
18 From those admissions, officers learned that she had given large amounts of cash to
19 ROBERT HOLMES III, (aka Bobby Holmes aka Robert Holmes). Through Attorney, Sean
20 Sullivan, representing ROBERT HOLMES III, (aka Bobby Holmes aka Robert Holmes),
21 U.S. CURRENCY \$70,000.00, was voluntarily surrendered to officers.

22 TONYA M. TREVARTHEN, (aka Tonya Michelle Trevarthen), also told the officers
23 that she had given money to AAA People's Choice Bail Bond Company on November 9,
24 2006, to pay the bail for DAIMON MONROE, (aka Daimon Devi Hoyt). Eventually the
25 officers used a search and seizure warrant to recover U.S. CURRENCY \$528.95 from the
26 account of As The Bail Turns and U.S. CURRENCY \$5,105.38 from the account of All Out
27 Bail Bonds representing a portion of the money paid for the bail of DAIMON MONROE,
28 (aka Daimon Devi Hoyt).

1 Officers learned that TONYA M. TREVARTHEN had transferred thousands of
2 dollars to Attorney Al Lasso between November 9, 2006, and November 20, 2006. Using a
3 search and seizure warrant the officers recovered U.S. CURRENCY \$26,502.18 from Al
4 Lasso's Client Trust Account.

5 Bank records also informed the officers that TONYA M. TREVARTHEN, (aka
6 Tonya Michelle Trevarthen), had transferred U.S. CURRENCY \$3,500.00 to Attorney
7 Jonathan Lord for seizure proceedings. Mr. Lord voluntarily surrendered that amount to the
8 LVMPD officers.

9 It was also learned that TONYA M. TREVARTHEN, (aka Tonya Michelle
10 Trevarthen), had transferred U.S. CURRENCY \$10,000.00 to Attorney Joel Mann for legal
11 services on behalf of DAIMON MONROE, (aka Daimon Hoyt). Mr. Mann voluntarily
12 surrendered that amount to the LVMPD officers.

13 A final total of U.S. CURRENCY \$281,656.73, was seized by LVMPD officers as
14 proceeds attributable to the commission or attempted commission of felonies by these named
15 claimants.

16 WHEREFORE PLAINTIFF Prays that this Honorable Court declare that this
17 Plaintiff, the Las Vegas Metropolitan Police Department, is the legal owner of Defendant
18 U.S. CURRENCY \$281,656.73; that this Honorable Court decree the forfeiture of Defendant
19 U.S. CURRENCY, free of all claims of all persons pursuant to the provisions of NRS
20 453.301(9), and Order said Defendant U.S. CURRENCY to be distributed in the manner set

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1 forth in NRS 179.1185 and 179.118; that Plaintiff recovers its costs and attorneys fees
2 against any party, person, or entity opposing the forfeiture of Defendant U.S. CURRENCY
3 as prayed for herein; that Plaintiff has such other and further relief as the Court deems just
4 and proper.

5 DATED this 8th day of March, 2007.

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7 DAVID ROGER
Clark County District Attorney
Nevada Bar #002781

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10 BY


11 RANDALL P. WEED
Chief Deputy District Attorney
Nevada Bar #000082
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27 LVMPD EV#060924-0418; EV#061106-0453; EV#061122-1205; EV#061129-1719;
28 EV#061207-1290; EV#061207-1538; EV#061214-1544; EV#070226-0684/cm

EXHIBIT

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1 allegation contained therein.

2 4. That it has been necessary for the Defendant to
3 employ the services of an attorney to defend this action and a
4 reasonable sum should be allowed Defendant as and for attorney's
5 fees, together with his costs expended in this action.

6 **AFFIRMATIVE DEFENSES**

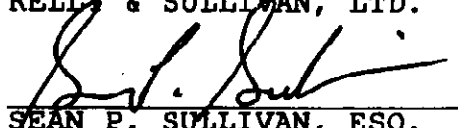
7 1. Defendant alleges that the allegations contained in
8 the Plaintiff's Complaint fails to state a cause of action against
9 Defendant upon which relief can be granted.

10 2. Plaintiffs by their own acts and/or admissions, are
11 estopped from declaring any claims for damages.

12 WHEREFORE, the Defendant demands judgment that the
13 Plaintiffs take nothing by way of the Complaint on file herein and
14 that they go hence with their costs herein and that Defendant be
15 awarded reasonable attorneys fees and costs incurred herein.

16 DATED this 11 day of April, 2007.

17 KELLY & SULLIVAN, LTD.

18 By: 

19 SEAN P. SULLIVAN, ESQ.
20 Nevada Bar No. 4768
21 302 E. Carson Ave. 600
22 Las Vegas, Nevada 89101
23 Attorney for Defendant/
24 Real Party in Interest
25 ROBERT HOLMES, III
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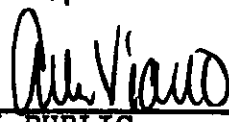
1 STATE OF NEVADA)
2) ss.
3 COUNTY OF CLARK)

4 ROBERT HOLMES III, being first duly sworn, deposes and
5 says:

6 That he is the real party in interest of the Defendant
7 in the above-entitled matter, that he has read the foregoing
8 Amended Answer and knows the contents thereof, and that the same
9 is true of his own knowledge except for those matters therein
10 stated on information and belief, and as for those matters, he
11 believes it to be true.

12 
13 ROBERT HOLMES, III

14 SUBSCRIBED AND SWORN to before me
15 this 11 day of April, 2007.

16 
17 NOTARY PUBLIC



EXHIBIT

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CR
CLERK OF THE COURT

1 **ORDR**
2 **DAVID ROGER**
3 **Clark County District Attorney**
4 **Nevada Bar #02781**
5 **RANDALL F. WEED**
6 **Chief Deputy District Attorney**
7 **Nevada Bar #000082**
8 **200 Lewis Avenue**
9 **Las Vegas, NV 89155-2212**
10 **(702) 671-2500**
11 **Attorney for Plaintiff**

**DISTRICT COURT
CLARK COUNTY, NEVADA**

10 **LAS VEGAS METROPOLITAN POLICE**
11 **DEPARTMENT,**

Plaintiff,

-vs-

13 **U.S. CURRENCY \$281,656.73**

Defendant.

Case No. **A537416**
Dept No. **VII**

**ORDER GRANTING MOTION FOR STAY
OF FORFEITURE PROCEEDINGS**

DATE OF HEARING: 05/16/2007
TIME OF HEARING: 8:30 A.M.

21 THIS MATTER having come on for hearing before the above entitled Court on the
22 16th day of May, 2007, the Claimants not being present, and Claimants' Counsel not being
23 present, the Plaintiff being represented by DAVID ROGER, District Attorney, through
24 RANDALL F. WEED, Chief Deputy District Attorney, and the Court having heard the
25 arguments of counsel and good cause appearing therefor,

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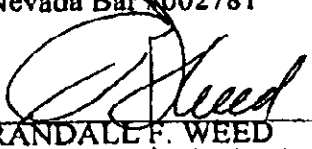
28 ///

1 IT IS HEREBY ORDERED that the Motion for Stay of the Forfeiture Proceeding;
2 shall be, and it is Granted.

3 IT IS FURTHER ORDERED that upon the final resolution of Criminal Cas
4 C208321 by trial or by negotiation that this Stay shall be automatically lifted and th
5 forfeiture proceeding may resume.

6 DATED this 17 day of May, 2007.

8 STEWART L. BELL
9 DISTRICT JUDGE

10
11 DAVID ROGER
12 DISTRICT ATTORNEY
13 Nevada Bar #002781
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15 RANDALL F. WEED
16 Chief Deputy District Attorney
17 Nevada Bar #000082
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28 LVMPD EV#060924-0418/cm

1 I hereby certify that service of NOTICE OF ENTRY OF ORDER was made this
2 2/5 day of May, 2007, by facsimile transmission to:

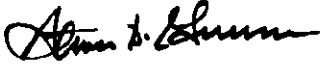
3
4 KELLY & SULLIVAN, LTD.
SEAN P. SULLIVAN, ESQ.
Attorney for Claimant for Robert Holmes III
5 FAX #: (702) 385-7282
6

7 
8 Secretary for District Attorney's Office
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28 Event No.060924-0418/cm

EXHIBIT

4


CLERK OF THE COURT

1 **NOTM**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 THOMAS J. MOREO
6 Chief Deputy District Attorney
7 Nevada Bar #002415
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorneys for Plaintiff

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

10 LAS VEGAS METROPOLITAN POLICE)
11 DEPARTMENT,)

12 Plaintiff,

13 vs.

14 U.S. CURRENCY \$281,656.72,

15 Defendant.)

Case No. 07A537416

Dept No. VIII

16 **NOTICE OF MOTION AND MOTION TO LIFT STAY**

17 **DATE OF HEARING:** _____
18 **TIME OF HEARING:** _____ A.M.

19 COMES NOW, STEVEN B. WOLFSON, Clark County District Attorney, by and
20 through THOMAS J. MOREO, Chief Deputy District Attorney, attorneys representing
21 Plaintiff herein and respectfully moves this Honorable Court for an Order lifting the two
22 Motions to Stay of Forfeiture Case herein filed on or about April 5, 2007 and April 23, 2007.

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1 This Motion is made and based upon the attached Points and Authorities and any
2 argument deemed appropriate at time of hearing.

3 Respectfully submitted
4 STEVEN B. WOLFSON
5 DISTRICT ATTORNEY
6 Nevada Bar #001565

7 BY /s/ T J MOREO
8 THOMAS J. MOREO
9 Chief Deputy District Attorney
10 Nevada Bar #002415
11 Attorney for Plaintiff

12 **NOTICE OF MOTION**

13 TO: CYNTHIA L. DUSTIN, ESQ.
14 324 S. 3rd Street, #1
15 Las Vegas, NV 89101
16 Attorney for BRYAN M. FERGASON

17 ROBERT HOLMES, III (BAC #1034184)
18 Southern Desert Correctional Center
19 P.O. Box 208
20 Indian Springs, NV 89070-0208

21 Daimon Monroe (BAC #38299)
22 High Desert State Prison
23 P.O. Box 650
24 Indian Springs, NV 89070-0650

25 YOU WILL PLEASE TAKE NOTICE that the Plaintiff will bring the foregoing
26 Motion on for hearing before the above entitled Court at the Clark County Courthouse, Las
27 Vegas, Nevada, on the 9 day of April, 2012, in **Department**
28 **VIII**, at the hour of In Chambers **a.m.** of that day, or as soon thereafter as counsel may be
heard.

23 Respectfully submitted
24 STEVEN B. WOLFSON
25 DISTRICT ATTORNEY
26 Nevada Bar #001565

27 BY /s/ T J MOREO
28 THOMAS J. MOREO
Chief Deputy District Attorney
Nevada Bar #002415

1 **POINTS AND AUTHORITIES**

2 **BACKGROUND**

3 Plaintiff the Las Vegas Metropolitan Police Department filed a Complaint for
4 Forfeiture in this forfeiture proceeding on March 9, 2007. Pursuant to NRS 170.1173, a stay
5 of these proceedings was entered pursuant to two Motions for Stay of Forfeiture Case.

6 Claimant, DAIMON MONROE, aka Daimon Devi Hoyt, in Proper Person, filed a
7 Motion for Stay of Forfeiture Case proceedings with the Clark County Clerk's Office on
8 April 5, 2007. In Claimant MONROE'S Motion, he requested a stay pending the outcome of
9 the criminal cases C228752 and 06F18594X.

10 Claimant, BRYAN M FERGASON, aka Bryan Michael Fergason, aka J.B., through
11 his attorney Cynthia L. Dustin, Esq., filed a Motion for Stay of Forfeiture Case with the
12 Clark County Clerk's office on April 23, 2007. In Claimant FERGASON's Motion, he
13 requested a stay pending the outcome of the criminal case C208321.

14 On April 24, 2007, in a telephone conversation with Sean P. Sullivan, Esq, attorney
15 for Claimant ROBERT HOLMES, III, aka Bobby Holmes, aka Robert Holmes, affirmed that
16 Claimant HOLMES joins in the two Motions for Stay of Proceedings.

17 Potential Claimant, TONYA TREVARTHEN, aka Tonya Michelle Trevarthen, who
18 resides out of state, was served with the Summons and Complaint in the forfeiture action by
19 publication in the Las Vegas Review Journal.

20 Plaintiff's representative, Thomas J. Moreo agreed to stay the forfeiture matter
21 pending the outcome of the criminal cases, which is based on the same evidence as the
22 forfeiture matter.

23 In respect to Claimant DAIMON MONROE's Motion for Stay pending criminal case,
24 C228752, all defendants have been adjudicated guilty by way of Judgments of Conviction.
25 As to Claimant TONYA TREVARTHEN, aka Tonya Michelle Trevarthen, a Judgment of
26 Conviction was filed in this matter on October 3, 2008. On January 5, 2009, a Judgment of
27 Conviction was filed as to Claimant ROBERT HOLMES, III, aka Bobby Holmes, aka
28 Robert Holmes. On April 6, 2009, an Amended Judgment of Conviction was filed in this

1 matter as to Claimant BRYAN FERGASON, aka Bryan Michael Fergason, aka J.B. Lastly,
2 as to Claimant DAIMON MONROE, aka Daimon Devi Hoyt, an Amended Judgment of
3 Conviction was filed in this case on September 17, 2010.

4 Further, in respect to Claimant DAIMON MONROE's Motion for Stay, he also
5 referenced the pending criminal case 06F18594X. This case was bound over to District
6 Court, Case No. C227874. Claimants, DAIMON MONROE and BRYAN FERGASON,
7 have been adjudicated guilty in Case No. C227874. An Amended Judgment of Conviction
8 was filed in Case No. C227874 on August 4, 2008, as to Claimant DAIMON MONROE, aka
9 Daimon Devi Hoyt. A Second Amended Judgment of Conviction was filed in Case No.
10 C227874 on March 3, 2010, as to Claimant BRYAN FERGASON, aka Bryan Michael
11 Fergason, aka J.B.

12 Lastly, in Claimant BRYAN FERGASON's Motion for Stay, he referenced the
13 pending criminal charges in Case No. C208321. On June 29, 2011, a Second Amended
14 Judgment of Conviction was filed in this matter as to Claimant BRYAN FERGASON.

15 DISCUSSION

16 NRS 170.1173 provides that a forfeiture case may be stayed during the pendency of
17 any underlying criminal case. In the subject case, the stay was properly granted pursuant to
18 this statute. However, the underlying criminal cases have since been bound over to District
19 Court, Case Numbers 06C228752, 06C227874, and 06C208321, and all parties have been
20 adjudicated guilty. As such, Plaintiff respectfully requests this Court to lift the stay
21 previously ordered in these proceedings.

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CONCLUSION

Based on the foregoing, Plaintiff the Las Vegas Metropolitan Police Department respectfully requests that this Court lift the stay in these proceedings.

DATED this 5th day of March, 2012.

Respectfully submitted,

STEVEN B. WOLFSON
DISTRICT ATTORNEY
Nevada Bar #001565

BY /s/ T J MOREO
THOMAS J. MOREO
Chief Deputy District Attorney
Nevada Bar #002415

LVMPD EV#060924-0418/jd

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CYNTHIA L. DUSTIN, ESQ.
324 S. 3rd Street, #1
Las Vegas, NV 89101
Attorney for BRYAN M. FERGASON

ROBERT HOLMES, III (BAC #1034184)
Southern Desert Correctional Center
P.O. Box 208
Indian Springs, NV 89070-0208

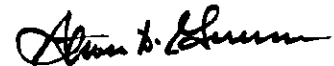
Daimon Monroe (BAC #38299)
High Desert State Prison
P.O. Box 650
Indian Springs, NV 89070-0650.

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EXHIBIT

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CLERK OF THE COURT

1 **NEOJ**
2 **STEVEN B. WOLFSON**
3 **Clark County District Attorney**
4 **Nevada Bar #001565**
5 **THOMAS J. MOREO**
6 **Chief Deputy District Attorney**
7 **Nevada Bar #002415**
8 **200 Lewis Avenue**
9 **Las Vegas, Nevada 89155-2212**
10 **(702) 671-2500**
11 **Attorney for Plaintiff**

7 **DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**

9 **LAS VEGAS METROPOLITAN POLICE**
10 **DEPARTMENT,**

11 **Plaintiff,**

12 **-vs-**

13 **U.S. CURRENCY \$281,656.73,**

14 **Defendant.**

CASE NO: 07A537416

DEPT NO: VIII

15 **NOTICE OF ENTRY OF ORDER**

16 **TO: BRYAN M. FERGASON**
17 **Claimant In Proper Person**

18 **TO: ROBERT HOLMES, III**
19 **Claimant In Proper Person**

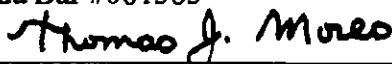
20 **TO: DAIMON MONROE**
21 **Claimant In Proper Person**

22 **TO: TONYA TREVARTHEN**
23 **Claimant In Proper Person**

24 **YOU WILL PLEASE TAKE NOTICE that a Findings of Fact, Conclusion of Law**
25 **and Order was entered on the 28th day of November, 2012, in the above-entitled action, a**
26 **copy of which is attached hereto.**

27 **DATED this 29th day of November, 2012.**

28 **STEVEN B. WOLFSON**
Clark County District Attorney
Nevada Bar #001565

BY 
THOMAS J. MOREO
Chief Deputy District Attorney
Nevada Bar #002415

1 **CERTIFICATE OF MAILING**

2 I hereby certify that service of the NOTICE OF ENTRY OF ORDER was made the
3 29th day of November, 2012, by depositing a copy in the U.S. Mail, postage prepaid,
4 addressed to:

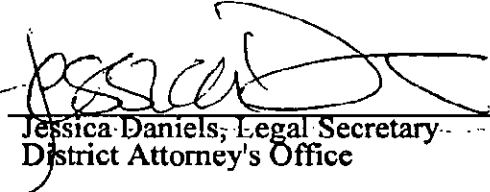
5 BRYAN M. FERGASON, (BAC #96803)
6 High Desert State Prison
7 P.O. Box 650
Indian Springs, NV 89070-0650

8 ROBERT HOLMES, III (BAC #1034184)
9 Southern Desert Correctional Center
P.O. Box 208
Indian Springs, NV 89070-0208

10 DAIMON MONROE (BAC #38299)
11 High Desert State Prison
12 P.O. Box 650
Indian Springs, NV 89070-0650

13 TONYA TREVARTEN
14 aka Tonya Issa
1409 Hermitage Drive
Round Rock, Texas 78681-1924
15 *(via certified mail, return receipt)*

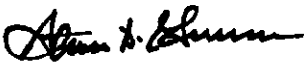
16 TONYA TREVARTEN
17 aka Tonya Issa
807 David Curry Drive
Round Rock, Texas 78664
18 *(via certified mail, return receipt)*

19
20
21 BY 

22 Jessica Daniels, Legal Secretary
23 District Attorney's Office
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28

LVMPD EV#060924-0418; EV#061106-0453; EV#061122-1205; EV#061129-1719;
EV#061207-1290; EV#061207-1538; EV#061214-1544; EV#070226-0684/jd

EXHIBIT 6


CLERK OF THE COURT

1 FCL
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 THOMAS J. MOREO
6 Chief Deputy District Attorney
7 Nevada Bar #002415
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

12 LAS VEGAS METROPOLITAN POLICE
13 DEPARTMENT,

Plaintiff,

CASE NO: 07A537416
DEPT NO: VIII

-vs-

U.S. CURRENCY \$281,656.73,

Defendant.

**FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER**

DATE OF HEARING: November 13, 2012
TIME OF HEARING: 8:00 A.M.

THIS CAUSE having come on for hearing before the Honorable Douglas Smith,
District Judge, on the 13th day of November, 2012, the Plaintiff being represented by
STEVEN B. WOLFSON, Clark County District Attorney, by and through THOMAS J.
MOREO, Chief Deputy District Attorney, and the Claimants DAIMON MONROE, aka
Daimon Devi Hoyt, (hereinafter referred to as "DAIMON MONROE"), BRYAN M.
FERGASON, aka Bryan Michael Fergason, aka J.B., (hereinafter referred to as "BRYAN M.
FERGASON"), TONYA M. TREVARTHEN, aka Tonya Michelle Trevarthen, (hereinafter
referred to as "TONYA M. TREVARTHEN"), and ROBERT HOLMES, III, aka Bobby
Holmes, aka Robert Holmes, (hereinafter referred to as "ROBERT HOLMES, III"), and the
Court having considered the matter, including briefs, transcripts, arguments of counsel, and

1 documents on file herein, now therefore, the Court makes the following findings of fact and
2 conclusions of law:

3 **FINDINGS OF FACT**

4 1. A Complaint for Forfeiture was filed on March 9, 2007, wherein U.S.
5 CURRENCY \$281,656.73 represents proceeds attributable to the commission or attempted
6 commission of a felony, to wit: BURGLARY (NRS 205.060) and/or GRAND LARCENY
7 (NRS 205.220) and/or POSSESSION OF STOLEN PROPERTY (NRS 205.275).

8 2. An Answer to the Complaint for Forfeiture was filed by DAIMON MONROE
9 on April 5, 2007.

10 3. Cynthia L. Dustin, Esq., filed an Answer to the Complaint for Forfeiture on
11 behalf of BRYAN M. FERGASON on April 10, 2007.

12 4. Sean P. Sullivan, Esq., filed an Amended Answer to the Complaint for
13 Forfeiture on behalf of ROBERT HOLMES, III. on April 12, 2007.

14 5. In April of 2007, DAIMON MONROE filed a Motion to Stay Proceedings in
15 this forfeiture matter pending the outcome in Case Nos. C228752 and 06F18594. In respect
16 to DAIMON MONROE's Motion for Stay pending the outcome in the criminal case, Case
17 No. C228752, all Defendants have been adjudicated guilty. As to Claimant TONYA M.
18 TREVARTHEN, a Judgment of Conviction was filed in this matter on October 3, 2008,
19 wherein she pled guilty to one (1) count Conspiracy to Possess Stolen Property and/or to
20 Commit Burglary and one (1) count Possession of Stolen Property. On January 5, 2009, a
21 Judgment of Conviction was filed as to Claimant ROBERT HOLMES, III, wherein he
22 entered a plea of guilty to one (1) count of Conspiracy to Possess Stolen Property and/or
23 Commit Burglary and two (2) counts of Possession of Stolen Property. Claimants DAIMON

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1 MONROE and BRYAN M. FERGASON were brought to trial in the Eighth Judicial District
2 Court under Case No. C228752. A jury found DAIMON MONROE guilty of one (1) count
3 of Conspiracy to Possess Stolen Property and/or to Commit Burglary and 26 counts of
4 Possession of Stolen Property. An Amended Judgment of Conviction was filed in this
5 matter September 17, 2010. Further, a jury found BRYAN M. FERGASON guilty of one
6 (1) count of Conspiracy to Possess Stolen Property and/or to Commit Burglary and 25 counts
7 of Possession of Stolen Property.

8 6. Further, as to Claimant DAIMON MONROE'S Motion for Stay, he also
9 referenced the outcome in the pending criminal case, Case No. 06F18594X. This case was
10 bound over to District Court as Case No. C227874 where DAIMON MONROE and BRYAN
11 M. FERGASON were brought to trial and a jury found them guilty of two (2) counts of
12 Burglary, one (1) count of Grand Larceny, and one (1) count of Possession of Burglary
13 Tools. An Amended Judgment of Conviction was filed in Case No. C227874 on August 4,
14 2008, as to Claimant DAIMON MONROE. A Second Amended Judgment of Conviction
15 was filed in Case No. C227874 on March 3, 2010, as to Claimant BRYAN M. FERGASON.

16 7. On April 23, 2007, BRYAN M. FERGASON, through his attorney Cynthia L.
17 Dustin, filed a Motion to Stay Proceedings in this forfeiture matter pending the outcome in
18 Case No. C208321. In respect to BRYAN M. FERGASON's Motion for Stay he referenced
19 the pending outcome in the criminal case, Case No. C208321. On June 29, 2011, a Second
20 Amended Judgment of Conviction was filed wherein BRYAN M. FERGASON entered a
21 plea of guilty to Attempt Burglary.

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1 8. On March 5, 2012, Plaintiff filed a Motion to Lift the Stay of this forfeiture
2 matter as the Defendants had been adjudicated in all of the criminal cases, Case Nos.
3 C228752, 06F18594 (which was bound over to District Court as Case No. C227874), and
4 C208321. The Order Granting Motion to Lift Stay was filed with the Court on April 27,
5 2012. Plaintiff thereafter filed a Motion for Summary Judgment in the instant matter on June
6 5, 2012.

7 **CONCLUSIONS OF LAW**

8 On November 13, 2012, after the Honorable Douglas Smith in Department VIII,
9 reviewing all documents, and hearing oral arguments, the Court granted Plaintiff's Motion
10 for Summary Judgment, pursuant to NRS 179.1171(1), 179.1171(5) and 179.1156 to
11 179.121.

12 The Judgments of Conviction in the criminal cases have become final. The proof of
13 the facts necessary to sustain the conviction are, therefore, conclusive evidence in this
14 forfeiture action against DAIMON MONROE, BRYAN M. FERGASON, TONYA M.
15 TREVARTHEN, and ROBERT HOLMES, III, and satisfy all elements of the forfeiture
16 complaint.

17 As to Claimants MONROE and HOLMES, the money turned over pursuant to search
18 warrants was in the possession of their attorneys at the time of the seizure therefore they
19 have no possessory claim to the money.

20 As to Claimant FERGASON, the money was seized from his bank account as
21 proceeds from illegal activities.

22 As to Claimant TREVARTHEN, she agreed to forfeiture of any and all money seized
23 pursuant to negotiations in criminal case C228752 by way of a Guilty Plea Agreement filed
24 March 6, 2007.

25 In respect Claimant MONROE's allegations that they never received copies of the
26 search warrants at the time of the seizure of the proceeds by Las Vegas Metropolitan Police
27 Department. It has been confirmed by the Court that all Claimants were served with the
28 original search warrants, as well as being provided with filed copies of the search warrants at

1 a later date. Therefore, Claimant MONROE'S allegation that they never received copies of
2 the search warrants is inaccurate pursuant to the facts of the case.

3 **ORDER**

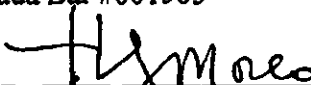
4 THEREFORE, IT IS HEREBY ORDERED that the Motion for Summary Judgment
5 against Claimants DAIMON MONROE, aka Daimon Devi Hoyt, BRYAN M. FERGASON,
6 aka Bryan Michael Ferguson, aka J.B., TONYA M. TREVARTHEN, aka Tonya Michelle
7 Trevarthen, , and ROBERT HOLMES, III, aka Bobby Holmes, aka Robert Holmes, shall be,
8 and it is, hereby granted.

9 DATED this 28th day of November, 2012.

10
11 
DISTRICT JUDGE TB

12 STEVEN B. WOLFSON
13 Clark County District Attorney
14 Nevada Bar #001565

15 BY


THOMAS I. MOREO
16 Chief Deputy District Attorney
17 Nevada Bar #002415

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28 LVMPD EV#060924-0418; 061106-0453; 061122-1205; 061129-1719; 061207-1290;
061207-1538; 061214-1544; 070226-0684 /jd

1:FORFEITORDERS2012\060924-0418 ET AL HOLMES MONROE FERGASON FINDINGSFACTCONCLUSION.doc

EXHIBIT

7

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
OFFICER'S REPORT**

EVENT #: 061129-1719

Tonya Trevarthen Interview and
Crime Proceeds Seizure Investigation

SUBJECT

DIVISION REPORTING: Investigative Services

DIVISION OF OCCURRENCE: Investigative Services

DATE AND TIME
OCCURRED: 11/29/06; 1400hrs

LOCATION OF
OCCURRENCE: 6177 Risepline Ct
Las Vegas, NV 89110

Suspect Involved: Holmes, Robert III (aka "Bobby")
DOB-07/13/70
SS# 263-65-9604
ID# 876216
6177 Risepline Ct LVN 89110

Other Suspects: Monroe, Daimon (aka Hoyt, Daimon)
DOB-06/28/66
SS# 530-43-2091
ID# 715429
1504 Cutler Drive LVN 89117

Trevarthen, Tonya
DOB-10/23/80
SS# 568-87-1411
ID# 1760548
1504 Cutler Drive LVN 89117

Law Enforcement Personnel: Detective B. Nickell P# 4311
LVMPD - Repeat Offender Program

Detective D. Franc P# 3794
LVMPD - Repeat Offender Program

Detective P. Fielding P# 3081
LVMPD - U.S. Immigration and Customs Enforcement (ICE) Task Force

Special Agent S. Sampilo
U.S. Immigration and Customs Enforcement (ICE)

Senior Special Agent J. Kramarczyk
U.S. Immigration and Customs Enforcement (ICE)

Special Agent B. Fulmer
U.S. Immigration and Customs Enforcement (ICE)

Date and Time of Report: 11/30/06; 1436hrs

Officer: Detective B. Nickell P#: 4311

Approved: _____

Officer: _____ P#: _____

LVMPD 82 (REV. 8/01) - AUTOMATED/MP12

SIGNATURE: _____

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

ID/Event Number: 061129-1719

Page 2 of 3

Items impounded: (700) \$100 bills totaling \$70,000 in U.S. currency (seizure)

Details:

On 11/22/06, Chief District Judge Kathy Hardcastle signed a search and seizure warrant for bank accounts belonging to Tonya Trevarthen. The seizure was due to the funds being proceeds of criminal activity, specifically commercial burglaries and the sales of stolen property. The monies in question had been illegally obtained by Trevarthen's boyfriend, Daimon Monroe (aka Daimon Hoyt).

Later on 11/22/06, Detective P. Fielding and I served the warrant at the Bank of America at 300 S. 4th Street. Assistant Banking Center Manager Devan Thoms is the bank officer who assisted us with the service of the warrant. Ms. Thoms also informed Detective Fielding and I that there had been several large transfers and withdrawals during the previous several days. Follow up on that information led to the discovery that Trevarthen had withdrawn a large sum of money well over \$100,000 in cash during that time. (See my Officer's Report submitted under EV#s 061122-1206 & 061122-1835 for further details).

On 11/27/06 I was contacted via telephone by Trevarthen. I told Trevarthen that I knew she had an attorney already and that she needed to consult her attorney if she needed to speak to me. Trevarthen told me that she had already done so and that she wanted to speak to me anyway without her attorney and against his advice. Trevarthen voluntarily met me at the LVMPD Investigative Services Division building at 4750 W. Oakley at approximately 1347hrs on 11/27/06.

I gave Trevarthen an admonition that she was not under arrest and that she could get up and leave at any point during the contact and nobody would stop her. I further advised Trevarthen that she did not have to speak to me and told her that I thought it would be in her best interests to have her attorney present during the interview. Trevarthen acknowledged my admonition and decided to speak with me anyway. (See transcription of Tonya Trevarthen's interview for complete details of the information provided).

One of the things that Trevarthen told me during the interview was that she had given \$20,000 cash to Robert "Bobby" Holmes during the week prior to Thanksgiving week and another \$125,000 cash to Holmes on 11/20/06. Holmes is a known associate and co-defendant of Trevarthen's boyfriend Monroe. Trevarthen told me that she trusted Holmes to hold the money for her and that she believed he would return it when she asked for it. These monies that were given to Holmes were from the bank account(s) that Judge Hardcastle had ordered the seizure of. The monies would have been seized on 11/22/06 if they had still remained in the account.

Ultimately, Trevarthen confessed to her knowledge and limited involvement in the commercial burglary ring that involved Monroe, Holmes and other suspects. I told Trevarthen that her next move would be to consult her attorney and that it would be in her best interests to retrieve the money from Holmes and surrender it for seizure. Trevarthen called me later that night and told me that she had met with Holmes downtown near the California Hotel and that Holmes refused to give her the money and told her that he wanted to talk to his attorney before he did anything.

On 11/29/06, Detective Fielding, Special Agent S. Sampilo, Senior Special Agent J. Kramarczyk and I went to Holmes' residence at 8177 Risepine to speak with him. We were greeted at the door by Holmes' wife, Princess Holmes, DOB-03/31/71. Princess told us that Holmes was not there and let us into the house to speak with her. Princess put me into telephone contact with Robert Holmes and I told him that we were at his house to speak with him and we were not there to arrest him. I asked Holmes to come home so we could talk. Holmes agreed and said he would be there in 20 minutes.

After Holmes delayed his arrival for approximately 45 minutes, Holmes' attorney Sean Sullivan called and I spoke to him over the phone. I informed Mr. Sullivan that we were there to see if Holmes would surrender the \$145,000. I told Mr. Sullivan that if Holmes did so, the ICE Agents would agree not to look into indicting Holmes for Federal crimes involving money laundering. Mr. Sullivan told me that Holmes advised him that he only had \$70,000 left of the \$145,000. Holmes said that he had used the missing money to pay bills and did not go into much detail. Mr. Sullivan

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT**

ID/Event Number: 061128-1719

Page 3 of 3

advised me that he and Holmes would meet with me at 1800hrs at my office to surrender the remaining money. Holmes was advised through Mr. Sullivan that he would still have to recoup the missing \$75,000 and surrender it within exactly 3 months for the arrangement to be complete. At approximately 1740hrs, Mr. Sullivan called me on the phone and advised that Holmes could not get the money that night. We agreed to meet on 11/30/06 at 1000hrs at my office.

On 11/30/06, Mr. Sullivan met Detective Fielding, Special Agent S. Sampilo, Special Agent B. Fulmer and I at 4750 W. Oakey. Mr. Sullivan brought exactly \$70,000 cash in \$100 bills into the meeting and said that it was from Holmes. Mr. Sullivan said that Holmes was very reluctant to meet in person because he was "freaked out" over the whole thing. Detective Fielding and I counted all of the money in Mr. Sullivan's presence. After counting the money, Mr. Sullivan told me that Holmes was in the lobby of the building. I asked Mr. Sullivan if we could speak to Holmes briefly and basically give him an admonishment and that I was not asking for his client to give me any information. Mr. Sullivan agreed.

Special Agent S. Sampilo and I met with Holmes with Mr. Sullivan present and we introduced ourselves. I told Holmes that I wanted to make it clear to him that he needed to recoup the remaining \$75,000 within three months for the arrangement to stand, meaning that the ICE Agents would not seek a Federal Indictment involving money laundering on Holmes. Holmes acknowledged the agreement by stating "Yes, sir." The contact was then ended.

Detective Fielding and I then re-counted the money together, photographed the money and detailed the amount on an LVMPD Money Accounting Form. Sgt. F. Hernandez P# 4651 verified the count. I placed the money in an evidence bag and sealed it. Detective Fielding and I then deposited the money into the evidence chute located in the same building.

**DETECTIVE B. NICKELL P# 4311
REPEAT OFFENDER PROGRAM**

EXHIBIT

8

CRIMINAL COURT MINUTES

06-C-228752-C STATE OF NEVADA

vs Holmes, Robert

CONTINUED FROM PAGE: 002

and has two equity lines of credit. One from one home and one from another. Further colloquy. Ms. DiGiacomo stated Deft. accepted \$145,000.00 of settlement money on November 17, 2006, which \$70,000.00 was returned two weeks later. However, agreement with Deft. that he would pay back \$75,000.00 in three months to the Metropolitan Police Department (Metro) and the FBI. Ms. DiGiacomo advised Deft. Trevvarthen was withdrawing the money from their accounts Friday before source hearing and all was traced accept for the \$145,000.00 which Deft. Trevvarthen stated she gave to Deft. Holmes. Deft. Trevvarthen told Metro she attempted to get money back and Deft's Holmes refused to give money back. Further, the State is concerned as to where the \$75,000.00 as counsel is not sure what happened to it at this point. Mr. Sullivan argued Deft. Holmes never admitted to taking the money. Further, equity lines where opened prior to all of this. Mr. Sullivan further argued Deft. was advised all of his homes and property would be seized and counsel advised Deft. to give what ever money had to Metro and the FBI. Additionally, Mr. Sullivan argued Deft. has provided sufficient proof as to where money is coming from. Court stated she is concerned as to where the money will be coming from as to paying payments towards the balance of the bond. Deft. advised he father is also helping to pay the bond company as well. Mr. Sullivan stated Deft. works full time at the Horseshoe and argued he has legitimate means to pay. Court further stated it appears Deft. can post the bond. Further, Deft. can come in and prove the source of the money as to the payments to the bond company. Mr. Sullivan also advised Deft. has ownership of two vehicles. Colloquy. Ms. DiGiacomo advised Deft. also owns a 27 foot cargo truck and a Suburban. COURT ORDERED, Deft. RELEASED ON BOND once posted and matter set for status check for Deft. to provide paper trail of where money is coming from. Colloquy regarding the \$13,000.00 already posted in Justice Court.

BOND

2/8/07 9:30 AM STATUS CHECK: BAIL BOND

EXHIBIT 9

1 On February 7, 2011, Defendant filed the instant Motion for Rehearing of his Petition.
2 The State's Opposition follows.

3 **ARGUMENT**

4 **I. DEFENDANT'S MOTION FOR RECONSIDERATION IS NOT PROPERLY
BEFORE THIS COURT.**

5 Defendant's Motion for Reconsideration is not properly before this Court and should
6 be denied. The Eighth Judicial District Court Rules provide that "[n]o motion once heard
7 and disposed of may be renewed in the same cause, nor may the same matters therein
8 ~~embraced be reheard, unless by leave of the court granted upon motion therefore, after such~~
9 ~~notice of such motion to the adverse parties."~~ EJDRC 2.24(a). Defendant failed to obtain
10 leave of the court to file this motion, therefore, his motion should be denied.

11 **II. DEFENDANT'S MOTION FOR RECONSIDERATION IS UNTIMELY**

12 Eighth Judicial District Court Rule 2.24(b) reads in pertinent part:

13 (b) A party seeking reconsideration of a ruling of the court, other
14 than any order which may be addressed by motion pursuant to
15 N.R.C.P. 50(b), 59 or 60, must file a motion for such relief
16 *within 10 days after service of written notice of the order or*
17 *judgment unless the time is shortened or enlarged by order.* A
motion for rehearing or reconsideration must be served, noticed,
filed and heard as is any other motion. A motion for
reconsideration does not toll the 30-day period for filing a notice
of appeal from a final order or judgment.

18 [Emphasis added.] The district court dismissed Defendant's Petition on December 2, 2010.
19 The Order dismissing Defendant's Petition was filed on January 10, 2011; thereafter, the
20 ~~Notice of Entry of Decision and Order~~ was filed on January 13, 2011. Defendant filed his
21 instant motion on February 7, 2011. Therefore, ~~Defendant's motion is untimely as it was not~~
22 ~~filed within ten (10) days of the court's rulings.~~ Defendant's motion should, consequently,
23 be denied.

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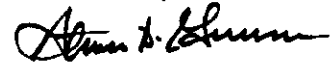
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EXHIBIT

10


CLERK OF THE COURT

1 **MSJD**
2 **STEVEN B. WOLFSON**
3 **DISTRICT ATTORNEY**
4 Nevada Bar #001565
5 **THOMAS J. MOREO**
6 Chief Deputy District Attorney
7 Nevada Bar #002415
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorneys for Plaintiff

8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 **LAS VEGAS METROPOLITAN POLICE)**
11 **DEPARTMENT,)**

12 **Plaintiff,)**

13 **vs.)**

14 **U.S. CURRENCY \$281,656.73,)**

15 **Defendant.)**

Case No. 07A537416

Dept No. VIII

16 **NOTICE OF MOTION AND MOTION FOR**
17 **SUMMARY JUDGMENT**

18 **DATE OF HEARING: 6/5/12**
19 **TIME OF HEARING: 8:00 AM**

20 COMES NOW, STEVEN B. WOLFSON, District Attorney, by and through
21 THOMAS J. MOREO, Chief Deputy District Attorney, attorney representing Plaintiff herein
22 and respectfully moves this Honorable Court for an Order Granting Summary Judgment to
23 Plaintiff against Claimants, DAIMON MONROE, aka Daimon Devi Hoyt, (hereinafter
24 referred to as "DAIMON MONROE"), BRYAN M. FERGASON, aka Bryan Michael
25 Fergason, aka J.B., (hereinafter referred to as "BRYAN M. FERGASON"), TONYA M.
26 TREVARTHEN, aka Tonya Michelle Trevarthen, (hereinafter referred to as "TONYA M.
27 TREVARTHEN"), and ROBERT HOLMES, III, aka Bobby Holmes, aka Robert Holmes,
28 (hereinafter referred to as "ROBERT HOLMES, III"), pursuant to the provisions of N.R.C.P.
56 and on the grounds that there exists no genuine issue as to any fact material to a

1 determination and that Plaintiff is entitled to Judgment as a matter of a law.

2 This moving Plaintiff further requests that this Honorable Court enter an Order,
3 pursuant to N.R.C.P. 54, granting its final judgment, there being no just reason for delay of
4 final judgment.

5 This Motion is made based upon all the pleadings and papers on file herein, the
6 Notice of Motion and Motion and Points and Authorities submitted herewith, together with
7 the oral argument of counsel if same be deemed appropriate at the time of the hearing.

8 **NOTICE OF MOTION**

9 TO: CYNTHIA L. DUSTIN, ESQ.
10 324 S. 3rd Street, #1
11 Las Vegas, NV 89101
Attorney for BRYAN M. FERGASON

12 TO: ROBERT HOLMES, III (BAC #1034184)
13 Southern Desert Correctional Center
P.O. Box 208
Indian Springs, NV 89070-0208

14 TO: DAIMON MONROE (BAC #38299)
15 High Desert State Prison
P.O. Box 650
16 Indian Springs, NV 89070-0650

17 TO: TONYA TREVARTHEN
18 1504 Cutler
Las Vegas, Nevada, 89117

19 YOU AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned
20 will bring the above and foregoing Motion for hearing before the above-entitled Court in
21 Department ^{VIII} ~~VII~~ on June 5, 2012 at ^{8:00 am} ~~9:00 a.m.~~ or as soon thereafter as counsel
22 can be heard.

23 DATED this 1st day of May, 2012.

24 Respectfully submitted
25 STEVEN B. WOLFSON
DISTRICT ATTORNEY
Nevada Bar #001565

26 BY /s/ T J MOREO
27 THOMAS J. MOREO
28 Chief Deputy District Attorney
Nevada Bar #002415

1 "5" attached hereto and incorporated herein. In respect to DAIMON MONROE's Motion
2 for Stay pending the outcome in the criminal case, Case No. C228752, all Defendants have
3 been adjudicated guilty. As to Claimant TONYA M. TREVARTHEN, a Judgment of
4 Conviction was filed in this matter on October 3, 2008, wherein she pled guilty to one (1)
5 count Conspiracy to Possess Stolen Property and/or to Commit Burglary and one (1) count
6 Possession of Stolen Property. See Exhibit "6" attached hereto and incorporated herein. On
7 January 5, 2009, a Judgment of Conviction was filed as to Claimant ROBERT HOLMES,
8 III, wherein he entered a plea of guilty to one (1) count of Conspiracy to Possess Stolen
9 Property and/or Commit Burglary and two (2) counts of Possession of Stolen Property. See
10 Exhibit "7" attached hereto and incorporated herein. Claimants DAIMON MONROE and
11 BRYAN M. FERGASON were brought to trial in the Eighth Judicial District Court under
12 Case No. C228752. A jury found DAIMON MONROE guilty of one (1) count of
13 Conspiracy to Possess Stolen Property and/or to Commit Burglary and 26 counts of
14 Possession of Stolen Property. An Amended Judgment of Conviction was filed in this
15 matter September 17, 2010. See Exhibit "8" attached hereto and incorporated herein.
16 Further, a jury found BRYAN M. FERGASON guilty of one (1) count of Conspiracy to
17 Possess Stolen Property and/or to Commit Burglary and 25 counts of Possession of Stolen
18 Property. See Exhibit "9" attached hereto and incorporated herein.

19 Further, as to Claimant DAIMON MONROE'S Motion for Stay, he also referenced
20 the outcome in the pending criminal case, Case No. 06F18594X. This case was bound over
21 to District Court as Case No. C227874 where DAIMON MONROE and BRYAN M.
22 FERGASON were brought to trial and a jury found them guilty of two (2) counts of
23 Burglary, one (1) count of Grand Larceny, and one (1) count of Possession of Burglary
24 Tools. An Amended Judgment of Conviction was filed in Case No. C227874 on August 4,
25 2008, as to Claimant DAIMON MONROE. See Exhibit "10" attached hereto and
26 incorporated herein. A Second Amended Judgment of Conviction was filed in Case No.
27 C227874 on March 3, 2010, as to Claimant BRYAN M. FERGASON. See Exhibit "11"
28 attached hereto and incorporated herein.

1 On April 23, 2007, BRYAN M. FERGASON, through his attorney Cynthia L. Dustin,
2 filed a Motion to Stay Proceedings in this forfeiture matter pending the outcome in Case No.
3 C208321. See Exhibit "12" attached hereto and incorporated herein. In respect to BRYAN
4 M. FERGASON's Motion for Stay he referenced the pending outcome in the criminal case,
5 Case No. C208321. On June 29, 2011, a Second Amended Judgment of Conviction was
6 filed wherein BRYAN M. FERGASON entered a plea of guilty to Attempt Burglary. See
7 Exhibit "13" attached hereto and incorporated herein.

8 On March 5, 2012, Plaintiff filed a Motion to Lift the Stay of this forfeiture matter as
9 the Defendants had been adjudicated in all of the criminal cases, Case Nos. C228752,
10 06F18594 (which was bound over to District Court as Case No. C227874), and C208321.
11 See Exhibit "14" attached hereto and incorporated herein. The Order Granting Motion to
12 Lift Stay was filed with the Court on April 27, 2012. See Exhibit "15" attached hereto and
13 incorporated herein.

14 DISCUSSION

15 Under NRS 179.1164, property subject to seizure and forfeiture includes any
16 proceeds attributable to the commission or attempted commission of a felony. Pursuant to
17 NRS 179.1161-62, "proceeds," in this context, include any property derived directly or
18 indirectly from the commission or attempted commission of a crime and "property" includes
19 money, security and negotiable instruments.

20 Here, all four of the Claimants were convicted of at least one felony charge in Case
21 No. C228752, as all of the charges of Possession of Stolen Property are classified as felonies
22 in Nevada. TONYA M. TREVARTHEN testified at both the Grand Jury and at DAIMON
23 MONROE's and BRYAN M. FERGASON's trial.

24 Before the Grand Jury, TONYA M. TREVARTHEN testified that a majority of the
25 items seized by the Las Vegas Metropolitan Police Department were stolen. (Grand Jury
26 transcript, Vol. II, p. 74). DAIMON MONROE considered stealing these items his "job,"
27 and he had come home with cash after committing the burglaries. (Grand Jury transcript,
28 Vol. II, p. 82-83). DAIMON MONROE would keep some of the money at the house in a

1 drawer in the kitchen, and the rest he would deposit into TONYA M. TREVARTHEN's
2 bank account through the ATM. (Grand Jury transcript, Vol. II, pp. 83, 133). The money
3 DAIMON MONROE was depositing, as well as the money he was keeping in the kitchen,
4 came from both burglaries and from selling things that he had stolen. (Grand Jury transcript,
5 Vol. II, pp. 85, 133). DAIMON MONROE would sell property out of their home almost
6 every weekend, as he wanted to sell off all of the stolen goods before the next weekend.
7 (Grand Jury transcript, Vol. II, p. 133). Attached hereto and incorporated herein as Exhibit
8 "16" is the Grand Jury Transcript, Vol. II.

9 TONYA M. TREVARTHEN reiterated at both DAIMON MONROE's and BRYAN
10 M. FERGASON's trial that the money in her bank accounts was proceeds attributable to the
11 sale of the stolen goods. DAIMON MONROE has access to TONYA M. TREVARTHEN's
12 accounts to make deposits and withdrawals, and DAIMON MONROE also had access to
13 online banking and could transfer money online. (BRYAN M. FERGASON Trial transcript,
14 day 4, p. 196; DAIMON MONROE Trial transcript, day 6, p. 60). TONYA M.
15 TREVARTHEN was with DAIMON MONROE on numerous occasions when he made cash
16 deposits because "cash would accumulate in the house." (DAIMON MONROE Trial
17 transcript, day 6, p. 60). In Fall of 2006, there was approximately \$300,000.00 in all of her
18 accounts combined. (BRYAN M. FERGASON Trial transcript, day 4, 196.) TONYA M.
19 TREVARTHEN testified that she withdrew money from her accounts at Bank of America to
20 pay attorneys' fees, and she also withdrew approximately \$145,000.00 to give to ROBERT
21 HOLMES, III. (DAIMON MONROE Trial transcript, day 6, pp. 87-88). When asked how
22 she had so much money in her bank accounts, TONYA M. TREVARTHEN testified that
23 most of the money in her bank accounts "was just cash that was made through selling the
24 stolen property." (DAIMON MONROE Trial transcript, day 6, p. 88). Attached hereto and
25 incorporated herein as Exhibit "17 is the BRYAN M. FERGASON Trial transcript, Day 4,
26 Vol. I. Also attached hereto and incorporated herein as Exhibit "18" is the DAIMON
27 MONROE Trial transcript, Day 6, Vol. I.

28 ///

1 During the time TONYA M. TREVARTHEN lived with DAIMON MONROE
2 between September 24, 2006, and November 6, 2006, TONYA M. TREVARTHEN knew or
3 believed the items in the house to be stolen because DAIMON MONROE and BRYAN M.
4 FERGASON never hid the fact that they were going out to commit burglaries. (DAIMON
5 MONROE Trial transcript, day 6, p. 85; BRYAN M. FERGASON Trial transcript, day 4, p.
6 217). TONYA M. TREVARTHEN testified that, because all of their money was in her bank
7 accounts, if the items in their house had been paid for, she would have known about it.
8 When asked how many items in the house were paid for, TONYA M. TREVARTHEN
9 responded "not many," and identified a couple of pieces of furniture and some clothing as
10 what she knew NOT to be stolen. (DAIMON MONROE Trial transcript, day 6, pp. 83-84).

11 Further, TONYA M. TREVARTHEN testified that, during the period of 2001 through
12 2006, DAIMON MONROE only worked in 2001 for a few months cleaning restaurants.
13 (BRYAN M. FERGASON Trial transcript, day 4, p. 198). Additionally, during the time
14 TONYA M. TREVARTHEN knew BRYAN M. FERGASON, he only worked for a few
15 months for a moving company. *Id.* at 199. During this time period, TONYA M.
16 TREVARTHEN worked as a school teacher. She made \$500.00 per week before taxes.
17 (BRYAN M. FERGASON Trial transcript, day 4, p. 194). The bills for the house she shared
18 with DAIMON MONROE totaled \$1,600.00 per month, not including utilities. TONYA M.
19 TREVARTHEN's salary did not pay all of the bills. *Id.* at 200. (DAIMON MONROE Trial
20 transcript, day 6, p. 61).

21 POINTS AND AUTHORITIES

22 → Whether there are no genuine issues of material fact remaining such that the State is
23 entitled to judgment as a matter of law regarding the forfeiture of U.S. CURRENCY in the
24 amount of \$281,656.73. The sole issue regarding the forfeiture was whether the money
25 seized during the criminal investigation of Claimants was proceeds attributable to the
26 commission or the attempted commission of a felony. If the money is determined to have
27 been proceeds from the commission or attempted commission of a felony, NRS provides that
28 the money is subject to forfeiture to the State as fruits of the crime. The Claimants in this

1 matter were all convicted of felonies.

2 Because the Claimants have failed to prove any lawful right to the money and because
3 TONYA M. TREVARTHEN's testimony in the criminal trials of both DAIMON MONROE
4 and BRYAN M. FERGASON provides enough support to establish that the money was
5 indeed proceeds from the commission of a felony, there are no genuine issues of material
6 fact remaining and the State is entitled to forfeiture as a matter of law.

7 Motion for Summary Judgment are governed by Rule 56 of the Nevada Rules of Civil
8 Procedure which provides, in pertinent part, "The judgment sought shall be rendered
9 forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file,
10 together with the affidavits, if any, show that there is no genuine issue as to any material fact
11 and that the moving party is entitled to a judgment as a matter of law."

12 A statute governing forfeitures in Nevada at NRS 179.1173(5) provides, "The
13 plaintiff is not required to plead or prove that a claimant has been charged with or convicted
14 of any criminal offense. If proof of such conviction is made, and it is shown that the
15 judgment of conviction has become final, the proof is, as against any claimant, conclusive
16 evidence of all facts necessary to sustain the conviction."

17 The cause of action set forth in this forfeiture action mirrors the criminal charges set
18 forth in the criminal cases. The legal theory of obtaining proceeds attributable to the
19 commission or attempted commission of a felony and the legal basis for the forfeiture claim
20 are supported by the same facts. In the forfeiture case the Las Vegas Metropolitan Police
21 Department's investigation shows the Claimants' collective possession of stolen property
22 and proceeds obtained from the sale of the stolen property. Further, the Las Vegas
23 Metropolitan Police Department was instrumental in the recovery of the stolen property and
24 the proceeds from the sale of the stolen property, thereby justifying its forfeiture under NRS
25 179.121.

26 The Judgments of Conviction in the criminal cases have become final. Copies of the
27 Judgments of Convictions have been attached hereto for the Court's convenience and
28 identified above. The proof of the facts necessary to sustain the conviction are, therefore,

1 conclusive evidence in this forfeiture action against DAIMON MONROE, BRYAN M.
2 FERGASON, TONYA M. TREVARTHEN, and ROBERT HOLMES, III, and satisfy all
3 elements of the forfeiture complaint.

4 **CONCLUSION**

5 Because the Claimants were all convicted of felonies, any proceeds from the crimes
6 committed are attributable to the commission of a felony, subject to forfeiture. Based on
→ 7 TONYA M. TREVARTHEN's testimony at the trial for both DAIMON MONROE and
8 BRYAN FERGASON and her testimony before the Grand Jury, the U.S. CURRENCY
9 \$281,656.73 seized by the officers of the Las Vegas Metropolitan Police Department was
→ 10 accumulated either as (1) a direct result of the burglaries, or (2) proceeds from the sale of the
→ 11 stolen goods Claimants were convicted of being in possession of. The State has enough facts
12 to support the conclusion that the Las Vegas Metropolitan Police Department is the rightful
→ 13 owner of the U.S. CURRENCY \$281,656.73 in question. For these reasons, the Plaintiff
→ 14 urges the Court to grant the Motion for Summary Judgment and order the forfeiture of the
15 currency as set forth in the Complaint for Forfeiture.

16 DATED this 1st day of May, 2012.

17 STEVEN B. WOLFSON
18 DISTRICT ATTORNEY
Nevada Bar #001565

19
20 BY /s/ T J MOREO
21 THOMAS J. MOREO
22 Chief Deputy District Attorney
23 Nevada Bar #002415
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CERTIFICATE OF MAILING

I hereby certify that service of the NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT, was made this 1st day of May, 2012, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

CYNTHIA L. DUSTIN, ESQ.
324 S. 3rd Street, #1
Las Vegas, NV 89101
Attorney for BRYAN M. FERGASON

ROBERT HOLMES, III (BAC #1034184)
Southern Desert Correctional Center
P.O. Box 208
Indian Springs, NV 89070-0208
Claimant in Proper Person

DAIMON MONROE (BAC #38299)
High Desert State Prison
P.O. Box 650
Indian Springs, NV 89070-0650
Claimant in Proper Person

TONYA TREVARTEN
1504 Cutler
Las Vegas, Nevada, 89117
Claimant in Proper Person

BY: /s/ Jessica Daniels

Jessica Daniels, Legal Secretary
Clark County District Attorney's Office

LVMPD EV#060924-0418/jd

EXHIBIT 11

AFFIDAVIT OF Robert Holmes III

State of Nevada

ss:

County of Clark

I Robert Holmes III First duly
sworn deposes and says;

1. I am the Defendant in Eighth Judicial District Court Forfeiture case 07 A537416.
2. I Did Not Give Consent to Attorney Sean P. Sullivan to ask for a stay in case 07 A537416.
3. Attorney Sean Sullivan Never Filed any Motion for Stay in Regards to this Forfeiture case.
4. All Criminal Cases pertaining to this Stay were Resolved and Final prior to the Honorable Judge Dismissal on October 29, 2009 also the controlling case which automatically lifted stay case C208321 which was Resolved ^{which} ~~the~~ Court Record shows August 29, 2005 the Honorable Judge Bell stated in his stay order the controlling case that automatically lift stay is case C208321. The Honorable Judge also stated in the stay order the stay will be automatically lifted once pleas have been entered into or Guilty by trials.

EX 6

5. Attorney Sean P. Sullivan advised me to
Give him my \$79,000 so he could give it to the (FBI)
6. Sean Sullivan also told me he will get
my \$79,000 Back from the (FBI)
After the FBI sorts everything out.
7. I Did Not have a Federal case at any
time.
8. I have since found out (ICE) are the
one's to have alleged as being the (FBI).

Executed at Southern Desert Correctional
Center under penalty of perjury pursuant
to 28 U.S.C. E 1746 on this 11th day of March
2012

By: Robert Holmes III
Robert Holmes III

CERTIFICATE OF SERVICE BY MAILING

I, Robert Holmes III, hereby certify, pursuant to NRCP 5(b), that on this 5
day of December, 2012, I mailed a true and correct copy of the foregoing, "AMENDED
PRO SE NOTICE OF APPEAL AND APPEAL STATEMENT"

by placing document in a sealed pre-postage paid envelope and deposited said envelope in the
United State Mail addressed to the following:

THOMAS J. MOREO
200 LEWIS AVE
LAS VEGAS NEVADA
89155-7712

CC:FILE

DATED: this 5 day of December, 2012.

Robert Holmes III # 1034164

/In Propria Personam
Post Office Box 208, S.D.C.C.
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding PRO-SE APPEAL

NOTICE OF APPEAL AND APPEAL STATEMENT
(Title of Document)

filed in District Court Case number 07-A-537416

☒ Does not contain the social security number of any person.

-OR-

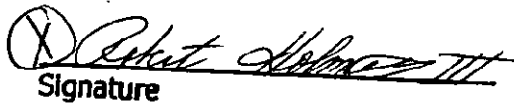
☐ Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

(State specific law)

-or-

B. For the administration of a public program or for an application for a federal or state grant.


Signature

12-5-07
Date

ROBERT HOLMES III
Print Name

DEPENDANT
Title

Robert Holmes III 1034184
SDCC P.O. Box 208
Indian Springs Nevada 89070

3763

Postnet
1214/2012
US POSTAGE

11/19/2012
3763

ROBERT HOLMES III - 1034164

Petitioner/In Propria Persona

Post Office Box 208, SDCC

Indian Springs, Nevada 89070-0208

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF CLARK

FILED

DEC 18 2012

Shirley L. Johnson
CLERK OF COURT

LAS VEGAS METROPOLITAN
POLICE DEPARTMENT

Plaintiff,

vs.

ROBERT HOLMES III, PORTION OF
\$281,656.35 IN THE SUM OF \$,
701,000.00 Defendant.

CASE No. 07-A-537416

DEPT. No. VII

DESIGNATION OF RECORD ON APPEAL

TO: STEVEN D. GRIFFIN
200 LEWIS AVE 3RD FLR
LAS VEGAS NEVADA
89101

07A637416

DROA

Designation of Record on Appeal
2083708



The above-named Plaintiff hereby designates the entire record of the above-entitled case, to include all the papers, documents, pleadings, and transcripts thereof, as and for the Record on Appeal.

DATED this 5 day of DECEMBER, 2012.

RESPECTFULLY SUBMITTED BY:

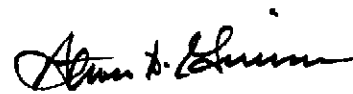
(X)

1034164
Plaintiff/In Propria Persona

CLERK OF THE COURT

RECEIVED
DEC 18 2012

RECEIVED



CLERK OF THE COURT

1 ASTA

2
3
4 **DISTRICT COURT**
5 **CLARK COUNTY, NEVADA**
6

7 LAS VEGAS METROPOLITAN POLICE
8 DEPARTMENT,

9 Plaintiff(s),

10 vs.

11 U.S. CURRENCY \$281,656.73,

12 Defendant(s).
13

Case No: 07A537416
Dept No: VIII

14
15 **CASE APPEAL STATEMENT**

16 1. Appellant(s): Robert Holmes, III

17 2. Judge: Doug Smith

18 3. Appellant(s): Robert Holmes, III

19 Counsel:

20 Robert Holmes, III #1034184
21 P.O. Box 208
Indian Springs, NV 89070

22 4. Respondent (s): Las Vegas Metropolitan Police Department

23 Counsel:

24 Steven B. Wolfson, District Attorney
25 200 Lewis Ave.
26 Las Vegas, NV 89155-2212

27 5. Respondent's Attorney Licensed in Nevada: Yes

28 6. Appellant Represented by Appointed Counsel In District Court: No

7. Appellant Represented by Appointed Counsel On Appeal: N/A

1
2 8. Appellant Granted Leave to Proceed in Forma Pauperis**: Yes, June 21, 2012
3 **Expires 1 year from date filed

4 9. Date Commenced in District Court: March 9, 2007

5 10. Brief Description of the Nature of the Action: Unknown

6 Type of Judgment or Order Being Appealed: Summary Judgment

7 11. Previous Appeal: Yes

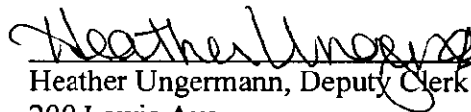
8 Supreme Court Docket Number(s): 60547, 60809, 61094, 61616, 62264, 62274

9 12. Child Custody or Visitation: N/A

10 13. Possibility of Settlement: Unknown

11 Dated This 19 day of December 2012.

12 Steven D. Grierson, Clerk of the Court

13
14 
Heather Ungermann, Deputy Clerk

15 200 Lewis Ave

16 PO Box 551601

17 Las Vegas, Nevada 89155-1601

18 (702) 671-0512
19
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27
28

44

Bryan Ferguson #96803
/ In Propria Personam
Post Office Box 650 [HDSP]
Indian Springs, Nevada 89018

FILED
DEC 21 2012
CLERK OF COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

07A537416
NOAS
Notice of Appeal
2095200



Las Vegas Metropolitan
Police Dept, Plaintiff,
vs.
U.S. Currency \$281,656.73
Defendant.

Case No. 07A537416
Dept. No. VIII
Docket

Notice to the Court / or alternative
Notice of Appeal

COMES NOW, Defendant, Bryan Ferguson, herein above respectfully
moves this Honorable Court for an Notice to the Court / or
alternative Notice of Appeal.

This Notice is made and based upon the accompanying Memorandum of Points and Authorities.

DATED: this 17 day of 12, 2012

BY Bryan Ferguson
Bryan Ferguson #96803
Defendant/In Propria Personam

RECEIVED
DEC 21 2012
CLERK OF THE COURT

1 On November 13, 2012 8:00 Am Defendant
2 went to court room VIII for Motion for Summary
3 Judgment/and Other Motions. In open Court
4 Judge Douglas Smith said he could not rule
5 on motion for Summary Judgment. The Court
6 advised it would review the Criminal case
7 and noted it would RESERVE its ruling
8 pending the appeal. See Exhibit 1

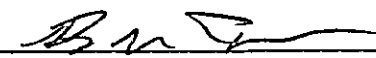
9 Now on December 3, 2012 I recieved in
10 the mail the findings of fact for the
11 November 13, 2012 Court date and it says
12 after the Honorable Douglas Smith in Dept
13 VIII reviewing all documents, and hearing oral
14 arguments, the Court granted Plaintiff's motion
15 for Summary Judgment.

16 I believe this document to be felonious.
17 The district attorney filed this order without
18 the Judges Signature. Someone else Signed
19 for him and put there initials by it.

20 See Exhibit 2

21 IF the court determines that this is a
22 felonious order then disregard the
23 Notice of appeal.

24 IF this is a ligetamit court order then
25 consider this notice to the court as a
26 Notice of appeal.

27 
Bryan Ferguson #96803
In Propria Personam
P.O. Box 650 H.D.S.P.
Indian Springs WV
89018

28 Page —

CERTIFICATE OF SERVICE BY MAILING

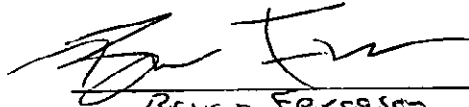
I, Bryan Ferguson, hereby certify, pursuant to NRCP 5(b), that on this 17
day of 12, 2012, I mailed a true and correct copy of the foregoing, "Notice
to the Court / or alternative Notice of Appeal"
by depositing it in the High Desert State Prison, Legal Library, First-Class Postage, fully prepaid,
addressed as follows:

Steven D. Grierson
clerk of the Court
200 Lewis Ave 3rd floor
Las Vegas NV 89155-1160

Office of the District Attorney
Forfeiture Unit
200 Lewis Ave
P.O. Box 552212
Las Vegas, NV 89155

CC: FILE

DATED: this 17 day of 12, 2012.



Bryan Ferguson

#96803

/In Propria Personam

Post Office box 650 [HDSP]
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Notice to the
Court/or alternative Notice of Appeal
(Title of Document)

filed in District Court Case number 07A537416

☒ Does not contain the social security number of any person.

-OR-

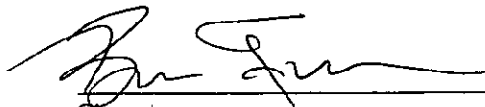
☐ Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

(State specific law)

-or-

B. For the administration of a public program or for an application
for a federal or state grant.


Signature

12-17-12
Date

Bryan Fergusson
Print Name

Defendant
Title

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Filing

COURT MINUTES

November 13, 2012

07A537416

Las Vegas Metropolitan Police Dept
vs
U S Currency \$281,656.73

November 13, 2012

8:00 AM

All Pending Motions

Defendant's Motion
for Summary
Judgment and to
Strike Plaintiff's
Motion for Summary
Judgment; Plaintiff's
Motion for Summary
Judgment

HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 16D

COURT CLERK: Katherine Streuber

RECORDER: Jill Jacoby

REPORTER:

PARTIES**PRESENT:**

Ferguson, Bryan M

Holmes III, Robert

Monroe, Daimon

Moreo, Thomas Joseph

Other Defendant

Other Defendant

Other Defendant

Civil District Attorney

JOURNAL ENTRIES

- Court advised it had read both motions and inquired if any of the Defendants wished to add anything. Defendant Monroe advised matter being on appeal regarding denial of motion in this case. Court advised it did not have jurisdiction. Argument by Defendant Monroe regarding lack of search warrant when items were taken. Defendant Monroe's Motion to Proceed in Forma Pauperis FILED IN OPEN COURT and Order SIGNED by the Court. Defendant Holmes argued closure/dismissal of instant case in October of 2009. Court advised case was closed administratively due to no movement. Further argument by Defendant Holmes. Court advised it would look into the timing. Further argument by Defendant Holmes. Defendant Ferguson advised it did not receive response to his motion. Argument by Mr. Moreo regarding search warrant having been resolved at trial and noted

PRINT DATE: 11/15/2012

Page 1 of 2

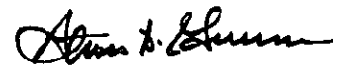
Minutes Date:

November 13, 2012

Exhibit 1

07A537416

monies were never in possession of Defendants. Further arguments by Defendants. Court advised it would review the criminal case and noted it would have to RESERVE its ruling pending the appeal. Further arguments by Defendants. COURT SO NOTED.


CLERK OF THE COURT

1 NEOJ
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 THOMAS J. MOREO
6 Chief Deputy District Attorney
7 Nevada Bar #002415
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

12 LAS VEGAS METROPOLITAN POLICE
13 DEPARTMENT,

Plaintiff,

-vs-

14 U.S. CURRENCY \$281,656.73,
15 Defendant.

CASE NO: 07A537416

DEPT NO: VIII

NOTICE OF ENTRY OF ORDER

16 TO: BRYAN M. FERGASON
17 Claimant In Proper Person

18 TO: ROBERT HOLMES, III
19 Claimant In Proper Person

20 TO: DAIMON MONROE
21 Claimant In Proper Person

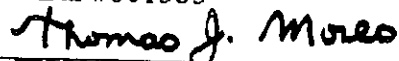
22 TO: TONYA TREVARTHEN
23 Claimant In Proper Person

24 YOU WILL PLEASE TAKE NOTICE that a Findings of Fact, Conclusion of Law
25 and Order was entered on the 28th day of November, 2012, in the above-entitled action, a
26 copy of which is attached hereto.

27 DATED this 29th day of November, 2012.

28 STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

BY



THOMAS J. MOREO
Chief Deputy District Attorney
Nevada Bar #002415

1 CERTIFICATE OF MAILING

2 I hereby certify that service of the NOTICE OF ENTRY OF ORDER was made the
3 29th day of November, 2012, by depositing a copy in the U.S. Mail, postage prepaid,
4 addressed to:

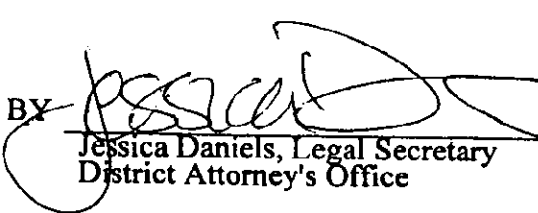
5 BRYAN M. FERGASON, (BAC #96803)
6 High Desert State Prison
7 P.O. Box 650
Indian Springs, NV 89070-0650

8 ROBERT HOLMES, III (BAC #1034184)
9 Southern Desert Correctional Center
P.O. Box 208
Indian Springs, NV 89070-0208

10 DAIMON MONROE (BAC #38299)
11 High Desert State Prison
12 P.O. Box 650
Indian Springs, NV 89070-0650

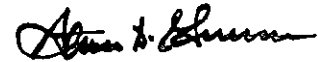
13 TONYA TREVARTHEN
14 aka Tonya Issa
15 1409 Hermitage Drive
Round Rock, Texas 78681-1924
(via certified mail, return receipt)

16 TONYA TREVARTHEN
17 aka Tonya Issa
18 807 David Curry Drive
Round Rock, Texas 78664
(via certified mail, return receipt)

19
20
21 BY 

22 Jessica Daniels, Legal Secretary
23 District Attorney's Office
24
25
26
27

28 LVMPD EV#060924-0418; EV#061106-0453; EV#061122-1205; EV#061129-1719;
EV#061207-1290; EV#061207-1538; EV#061214-1544; EV#070226-0684/jd



CLERK OF THE COURT

1 FCL
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 THOMAS J. MOREO
6 Chief Deputy District Attorney
7 Nevada Bar #002415
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

10 LAS VEGAS METROPOLITAN POLICE
11 DEPARTMENT,

12 Plaintiff,

CASE NO: 07A537416
DEPT NO: VIII

13 -vs-

14 U.S. CURRENCY \$281,656.73,

15 Defendant.

16 **FINDINGS OF FACT, CONCLUSIONS OF**
17 **LAW AND ORDER**

18 DATE OF HEARING: November 13, 2012
19 TIME OF HEARING: 8:00 A.M.

20 THIS CAUSE having come on for hearing before the Honorable Douglas Smith,
21 District Judge, on the 13th day of November, 2012, the Plaintiff being represented by
22 STEVEN B. WOLFSON, Clark County District Attorney, by and through THOMAS J.
23 MOREO, Chief Deputy District Attorney, and the Claimants DAIMON MONROE, aka
24 Daimon Devi Hoyt, (hereinafter referred to as "DAIMON MONROE"), BRYAN M.
25 FERGASON, aka Bryan Michael Fergason, aka J.B., (hereinafter referred to as "BRYAN M.
26 FERGASON"), TONYA M. TREVARTHEN, aka Tonya Michelle Trevarthen, (hereinafter
27 referred to as "TONYA M. TREVARTHEN"), and ROBERT HOLMES, III, aka Bobby
28 Holmes, aka Robert Holmes, (hereinafter referred to as "ROBERT HOLMES, III"), and the
Court having considered the matter, including briefs, transcripts, arguments of counsel, and

1 documents on file herein, now therefore, the Court makes the following findings of fact and
2 conclusions of law:

3 **FINDINGS OF FACT**

4 1. A Complaint for Forfeiture was filed on March 9, 2007, wherein U.S.
5 CURRENCY \$281,656.73 represents proceeds attributable to the commission or attempted
6 commission of a felony, to wit: BURGLARY (NRS 205.060) and/or GRAND LARCENY
7 (NRS 205.220) and/or POSSESSION OF STOLEN PROPERTY (NRS 205.275).

8 2. An Answer to the Complaint for Forfeiture was filed by DAIMON MONROE
9 on April 5, 2007.

10 3. Cynthia L. Dustin, Esq., filed an Answer to the Complaint for Forfeiture on
11 behalf of BRYAN M. FERGASON on April 10, 2007.

12 4. Sean P. Sullivan, Esq., filed an Amended Answer to the Complaint for
13 Forfeiture on behalf of ROBERT HOLMES, III. on April 12, 2007.

14 5. In April of 2007, DAIMON MONROE filed a Motion to Stay Proceedings in
15 this forfeiture matter pending the outcome in Case Nos. C228752 and 06F18594. In respect
16 to DAIMON MONROE's Motion for Stay pending the outcome in the criminal case, Case
17 No. C228752, all Defendants have been adjudicated guilty. As to Claimant TONYA M.
18 TREVARTHEN, a Judgment of Conviction was filed in this matter on October 3, 2008,
19 wherein she pled guilty to one (1) count Conspiracy to Possess Stolen Property and/or to
20 Commit Burglary and one (1) count Possession of Stolen Property. On January 5, 2009, a
21 Judgment of Conviction was filed as to Claimant ROBERT HOLMES, III, wherein he
22 entered a plea of guilty to one (1) count of Conspiracy to Possess Stolen Property and/or
23 Commit Burglary and two (2) counts of Possession of Stolen Property. Claimants DAIMON

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1 MONROE and BRYAN M. FERGASON were brought to trial in the Eighth Judicial District
2 Court under Case No. C228752. A jury found DAIMON MONROE guilty of one (1) count
3 of Conspiracy to Possess Stolen Property and/or to Commit Burglary and 26 counts of
4 Possession of Stolen Property. An Amended Judgment of Conviction was filed in this
5 matter September 17, 2010. Further, a jury found BRYAN M. FERGASON guilty of one
6 (1) count of Conspiracy to Possess Stolen Property and/or to Commit Burglary and 25 counts
7 of Possession of Stolen Property.

8 6. Further, as to Claimant DAIMON MONROE'S Motion for Stay, he also
9 referenced the outcome in the pending criminal case, Case No. 06F18594X. This case was
10 bound over to District Court as Case No. C227874 where DAIMON MONROE and BRYAN
11 M. FERGASON were brought to trial and a jury found them guilty of two (2) counts of
12 Burglary, one (1) count of Grand Larceny, and one (1) count of Possession of Burglary
13 Tools. An Amended Judgment of Conviction was filed in Case No. C227874 on August 4,
14 2008, as to Claimant DAIMON MONROE. A Second Amended Judgment of Conviction
15 was filed in Case No. C227874 on March 3, 2010, as to Claimant BRYAN M. FERGASON.

16 7. On April 23, 2007, BRYAN M. FERGASON, through his attorney Cynthia L.
17 Dustin, filed a Motion to Stay Proceedings in this forfeiture matter pending the outcome in
18 Case No. C208321. In respect to BRYAN M. FERGASON's Motion for Stay he referenced
19 the pending outcome in the criminal case, Case No. C208321. On June 29, 2011, a Second
20 Amended Judgment of Conviction was filed wherein BRYAN M. FERGASON entered a
21 plea of guilty to Attempt Burglary.

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8. On March 5, 2012, Plaintiff filed a Motion to Lift the Stay of this forfeiture matter as the Defendants had been adjudicated in all of the criminal cases, Case Nos. C228752, 06F18594 (which was bound over to District Court as Case No. C227874), and C208321. The Order Granting Motion to Lift Stay was filed with the Court on April 27, 2012. Plaintiff thereafter filed a Motion for Summary Judgment in the instant matter on June 5, 2012.

CONCLUSIONS OF LAW

On November 13, 2012, after the Honorable Douglas Smith in Department VIII, reviewing all documents, and hearing oral arguments, the Court granted Plaintiff's Motion for Summary Judgment, pursuant to NRS 179.1171(1), 179.1171(5) and 179.1156 to 179.121.

The Judgments of Conviction in the criminal cases have become final. The proof of the facts necessary to sustain the conviction are, therefore, conclusive evidence in this forfeiture action against DAIMON MONROE, BRYAN M. FERGASON, TONYA M. TREVARTHEN, and ROBERT HOLMES, III, and satisfy all elements of the forfeiture complaint.

As to Claimants MONROE and HOLMES, the money turned over pursuant to search warrants was in the possession of their attorneys at the time of the seizure therefore they have no possessory claim to the money.

As to Claimant FERGASON, the money was seized from his bank account as proceeds from illegal activities.

As to Claimant TREVARTHEN, she agreed to forfeiture of any and all money seized pursuant to negotiations in criminal case C228752 by way of a Guilty Plea Agreement filed March 6, 2007.

In respect Claimant MONROE's allegations that they never received copies of the search warrants at the time of the seizure of the proceeds by Las Vegas Metropolitan Police Department. It has been confirmed by the Court that all Claimants were served with the original search warrants, as well as being provided with filed copies of the search warrants at

1 a later date. Therefore, Claimant MONROE'S allegation that they never received copies of
2 the search warrants is inaccurate pursuant to the facts of the case.

3 **ORDER**

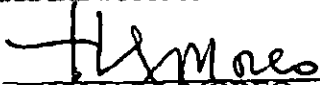
4 THEREFORE, IT IS HEREBY ORDERED that the Motion for Summary Judgment
5 against Claimants DAIMON MONROE, aka Daimon Devi Hoyt, BRYAN M. FERGASON,
6 aka Bryan Michael Fergason, aka J.B., TONYA M. TREVARTHEN, aka Tonya Michelle
7 Trevarthen, , and ROBERT HOLMES, III, aka Bobby Holmes, aka Robert Holmes, shall be,
8 and it is, hereby granted.

9 DATED this 28th day of November, 2012.

10 
11 DISTRICT JUDGE T6

12 STEVEN B. WOLFSON
13 Clark County District Attorney
14 Nevada Bar #001565

15 BY


16 THOMAS J. MOREO
17 Chief Deputy District Attorney
18 Nevada Bar #002415
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28 LVMPD EV#060924-0418; 061106-0453; 061122-1205; 061129-1719; 061207-1290;
061207-1538; 061214-1544; 070226-0684 /jd

I:\FORFEIT\ORDERS\2012\060924-0418 ET AL HOLMES MONROE FERGASON FINDINGSFACTCONCLUSION.doc

Bryan Ferguson #96803
H.D.S.P.
P.O. Box 650
Indian Springs NV 89070

CONFIDENTIAL

NOT MAIL

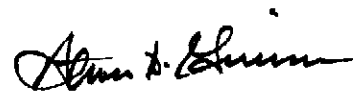
Steven D. Grierson
Clerk of the Court
ZooLewi's Avenue, 3rd Floor
Las Vegas NV 89155-1160

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Feb 17 2012

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CLERK OF THE COURT

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4 **DISTRICT COURT**
5 **CLARK COUNTY, NEVADA**
6

7 LAS VEGAS METROPOLITAN POLICE
8 DEPARTMENT,

9 Plaintiff(s),

10 vs.

11 U.S. CURRENCY \$281,656.73,

12 Defendant(s).
13
14

Case No: 07A537416
Dept No: VIII

15 **CASE APPEAL STATEMENT**

16 1. Appellant(s): Bryan Fergason

17 2. Judge: Doug Smith

18 3. Appellant(s): Bryan Fergason

19 Counsel:

20 Bryan Fergason #96803
21 P.O. Box 650
Indian Springs, NV 89070

22 4. Respondent (s): Las Vegas Metropolitan Police Department

23 Counsel:

24 Steven B. Wolfson, District Attorney
25 200 Lewis Ave.
26 Las Vegas, NV 89155-2212

27 5. Respondent's Attorney Licensed in Nevada: Yes

28 6. Appellant Represented by Appointed Counsel In District Court: No

7. Appellant Represented by Appointed Counsel On Appeal: N/A

1
2 8. Appellant Granted Leave to Proceed in Forma Pauperis**: N/A
3 ***Expires 1 year from date filed*

4 9. Date Commenced in District Court: March 9, 2007

5 10. Brief Description of the Nature of the Action: Unknown

6 Type of Judgment or Order Being Appealed: Summary Judgment

7 11. Previous Appeal: Yes

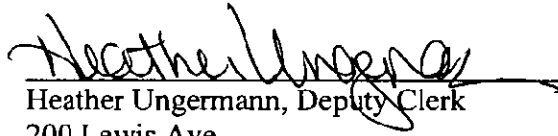
8 Supreme Court Docket Number(s): 60547, 60809, 61094, 61616, 62264, 62274

9 12. Child Custody or Visitation: N/A

10 13. Possibility of Settlement: Unknown

11 Dated This 27 day of December 2012.

12 Steven D. Grierson, Clerk of the Court

13
14 
15 Heather Ungermann, Deputy Clerk
16 200 Lewis Ave
17 PO Box 551601
18 Las Vegas, Nevada 89155-1601
19 (702) 671-0512
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1 PIFP
2 Bryan Ferguson #96803
3 P.O. Box 650 H.O.S.P.
4 Indian Springs, NV 89070
5
6 0
7

FILED
JAN 16 2013
CLERK OF COURT

8 IN PROPER PERSON

9 DISTRICT COURT
10 CLARK COUNTY, NEVADA

12 Las Vegas Metropolitan
13 Police Dept. Plaintiff(s),
14 vs.
15 US Currency \$281,656.73
16 Defendant(s).

62357
CASE NO.: A537416
DEPT. NO.: VIII

18 APPLICATION TO PROCEED IN FORMA PAUPERIS
19 (Filing Fees/Service Only)

21 Pursuant to NRS 12.015, and based on the following Affidavit, I request permission
22 from this Court to proceed without paying court costs or other costs and fees as provided in NRS
23 12.015 because I lack sufficient financial ability.

07A537416
PIFP
Application to Proceed in Forma Pauperis
2160931


RECEIVED
JAN 15 2013
CLERK OF THE COURT

AFFIDAVIT

STATE OF NEVADA)

COUNTY OF CLARK)

SS:

I, Bryan Ferguson, after being duly sworn, depose and state as follows:
(your name)

I wish to file with this Court the concurrently submitted pleading. I cannot pay the costs of filing because I lack sufficient income, assets or other resources. Including myself, there are 0 adults and 0 children in my household. Their age(s) is/are _____, _____, _____, _____, _____ and _____.

My total monthly income before taxes is:

From all sources including employment, self-employment, social security, child support, etc:\$ 0

Any other household income from another member of the household:\$ 0

List where you work and your job title:\$ 0

The following represents a list of my assets and their value

	<u>Value</u>	<u>Loan Balance</u>
Automobile <u>0</u> (year and type of car)	\$ _____	\$ _____
Mobile Home, House or Other Real Estate <u>0</u> (size, type and/or year of account)	\$ _____	\$ _____
Bank Accounts <u>0</u> (name of bank and type of account)	\$ _____	\$ _____
Other <u>0</u>	\$ _____	\$ _____
	\$ _____	\$ _____

///

///

///

1 My total monthly expenses are:

2 Rent or Mortgage \$ 0

3 Phone, Gas, Electricity, and Other Utilities \$ 0

4 Food \$ 0

5 Child Care \$ 0

6 Insurance \$ 0

7 Medical \$ 0

8 Transportation \$ 0

9 Other \$ 0

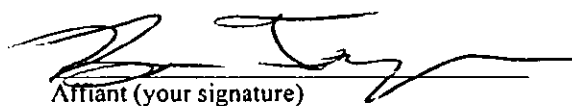
10 \$ 0

(List other expenses)

11
12 TOTAL MONTHLY EXPENSES \$ 0

(Total from above lines)

13
14 I request the Court hold a hearing on this Application if the Court is inclined to deny same, so
15 that I may testify as to my indigent status.

16
17 
18 Affiant (your signature)

19 SUBSCRIBED and SWORN to before me

20 this 10 day of 1, 13.

21
22 _____
23 Notary Public

24 ///

25 ///

26 ///

27 ///

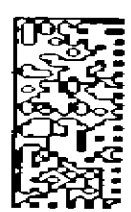
28 ///

Bryan Ferguson #96803
P.O. Box 650 H.D.S.P.
Indian Springs NV 89070

CONFIDENTIAL

LEGAL MAIL

Steven D GrierSon
Clerk of the Court
200 Lewis Avenue, 3rd Floor
Las Vegas, NV 89155



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LAW LIBRARY

FILED

FEB 01 2013

Alfred B. Williams
CLERK OF COURT

OIFP

Bryan Ferguson
(your name)

P.O. Box 650 H.D.S.P.
(your street address)

Indian Springs, NV 89070
(your city, state & zip code)

0
(your telephone number)

IN PROPER PERSON

DISTRICT COURT
CLARK COUNTY, NEVADA

07A637416
OIFP
Order to Proceed In Forma Pauperis
2103811



07A537416

Las Vegas Metropolitan
Police Dept. Plaintiff(s),

vs.

U.S. Currency \$281,656.73
Defendant(s).

CASE NO.:

62357
1537416

DEPT. NO.:

VIII

ORDER TO PROCEED IN FORMA PAUPERIS

(Filing Fees/Service Only)

Upon consideration of Bryan Ferguson's Ex Parte Motion
(Plaintiff/Defendant)

to Proceed in Forma Pauperis and it appearing that there is not sufficient income, property, or
resources with which to maintain the action and good cause appearing therefore:

///
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///
///

CLERK OF THE COURT

FEB 01 2013

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DEPARTMENT IX

JAN 24 2013 CLERK OF THE COURT

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JAN 13 2013

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Defendant

IT IS HEREBY ORDERED that

Bryan Ferguson
(Plaintiff/Defendant)

Bryan Ferguson, shall be permitted to proceed in Forma Pauperis with this
(your name)
action as permitted by NRS 12.015.

Defendant

IT IS FURTHER ORDERED that

Bryan Ferguson shall
(Plaintiff/Defendant)

proceed without the prepayment of costs or fees or the necessity of giving security, and the
Clerk of the Court may file or issue any necessary writ, process, pleading or paper without charge.

IT IS FURTHER ORDERED that the Sheriff or other appropriate officer within

this State shall make personal service of any necessary writ, pleading or paper without charge.

IT IS FURTHER ORDERED that if the

Defendant
(Plaintiff/Defendant)

Bryan Ferguson, prevails in this action, the Court shall enter an order pursuant
(Your name)
to NRS 12.015 requiring the opposing party to pay into the Court, within five (5) days, the costs
which would have been incurred by the prevailing party, and those costs must then be paid as
provided by law.

DATED this 30th day of January, 13

Ann P. Ziegler
DISTRICT COURT JUDGE

Respectfully submitted:

(Your signature)
(Your name)
(Address)
(Telephone)
(Circle one)

Bryan Ferguson
Bryan Ferguson #96803
P.O. Box 650
Indian Springs NV 89070
Plaintiff/Defendant In Proper Person

INMATE ACCOUNT STATEMENT
12/01/2012 - 12/31/2012

96803 FERGUSON, BRYAN M Unit-Wing: 12-E Cell-Bed: 6-B
HDSF:High Desert State Prison

TRUST FUND												
Tran Date	Description	96803 FERGUSON, BRYAN M										
		Comment	Reference	Srv Date	Case No	Doc No	Pay	Offset	Tran Amt	Balance		
12/01/2012		Opening Balance								214.17		
12/05/2012	SP INMATE STORE PURCHASE	Store Sale - 000730247	000730247			10000121032		6209	25.74	188.43		
12/13/2012	SP INMATE STORE PURCHASE	Store Sale - 000734436	000734436			10000121033		6209	16.12	172.31		
12/26/2012	SP INMATE STORE PURCHASE	Store Sale - 000735947	000735947			10000121033		6209	12.00	160.31		
12/28/2012	DEP DEPOSIT OTHER THAN PAYROLL	LOCKBOX 12/14/2012	2016 FERGA			0000121412	LKEX	6090	50.00	210.31		
12/28/2012	DEP DEPOSIT OTHER THAN PAYROLL	LOCKBOX 12/14/2012	2016 FERGA			0000121412	LKEX	SAVE	5.00	205.31		
12/28/2012	LP LEGAL POSTAGE	LEGAL POSTAGE	1850286	12/17/2012		10000120127		3763	1.70	203.61		
12/31/2012		Closing Balance								203.61		
SECOND TRUST FUND												
Tran Date	Description	96803 FERGUSON, BRYAN M										
		Comment	Reference	Srv Date	Case No	Doc No	Pay	Offset	Tran Amt	Balance		
12/31/2012		Closing Balance								.00		
DEPARTMENT CHARGES FUND												
Tran Date	Description	96803 FERGUSON, BRYAN M										
		Comment	Reference	Srv Date	Case No	Doc No	Pay	Offset	Tran Amt	Balance		
12/31/2012		Closing Balance								.00		
SAVINGS FUND												
Tran Date	Description	96803 FERGUSON, BRYAN M										
		Comment	Reference	Srv Date	Case No	Doc No	Pay	Offset	Tran Amt	Balance		
12/01/2012		Opening Balance								176.92		
12/28/2012	DEF DEPOSIT OTHER THAN PAYROLL	LOCKBOX 12/14/2012	2016 FERGA			0000121412	LKEX	TRUST	5.00	181.92		
12/31/2012		Closing Balance								181.92		

07A537416

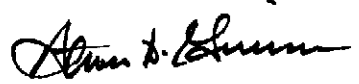
IN THE SUPREME COURT OF THE STATE OF NEVADA

DAIMON MONROE,
Appellant,
vs.
LAS VEGAS METROPOLITAN POLICE
DEPARTMENT,
Respondent.

Supreme Court No. 61616
District Court Case No. A537416

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CLERK'S CERTIFICATE



CLERK OF THE COURT

STATE OF NEVADA, ss.

I, Tracie Lindeman, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

"ORDER this appeal DISMISSED."

Judgment, as quoted above, entered this 18th day of March, 2013.

IN WITNESS WHEREOF, I have subscribed
my name and affixed the seal of the Supreme
Court at my Office in Carson City, Nevada this
March 18, 2013.

Tracie Lindeman, Supreme Court Clerk

By: Rory Wunsch
Deputy Clerk



IN THE SUPREME COURT OF THE STATE OF NEVADA

DAIMON MONROE,
Appellant,
vs.
LAS VEGAS METROPOLITAN POLICE
DEPARTMENT,
Respondent.

No. 61616

FILED

FEB 19 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Angela*
DEPUTY CLERK

ORDER DISMISSING APPEAL

On December 3, 2012, this court gave appellant 40 days to file and serve his civil proper person appeal statement. Appellant's civil appeal statement was due in this court by January 14, 2013. To date, appellant has failed to file his civil proper person appeal statement or otherwise respond to this court's directive. Accordingly, we conclude that appellant has abandoned this appeal, and we

ORDER this appeal DISMISSED.

Hardesty, J.
Hardesty

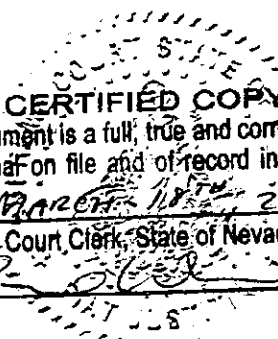
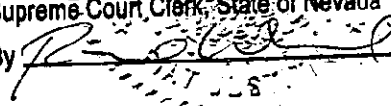
Parraguirre, J.
Parraguirre

Cherry, J.
Cherry

cc: Hon. Doug Smith, District Judge
Daimon Monroe
Clark County District Attorney
Eighth District Court Clerk



13-05084


CERTIFIED COPY
This document is a full, true and correct copy of
the original on file and of record in my office.
DATE: MARCH 10, 2013
Supreme Court Clerk, State of Nevada
By  Deputy

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAIMON MONROE,
Appellant,
vs.
LAS VEGAS METROPOLITAN POLICE
DEPARTMENT,
Respondent.

Supreme Court No. 61616
District Court Case No. A537416

REMITTITUR

TO: Steven D. Grierson, Eighth District Court Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.
Receipt for Remittitur.

DATE: March 18, 2013

Tracie Lindeman, Clerk of Court

By: Rory Wunsch
Deputy Clerk

cc (without enclosures):
Hon. Doug Smith, District Judge
Daimon Monroe
Clark County District Attorney

RECEIPT FOR REMITTITUR

Received of Tracie Lindeman, Clerk of the Supreme Court of the State of Nevada, the
REMITTITUR issued in the above-entitled cause, on MAR 25 2013.

HEATHER UNGERMANN
Deputy District Court Clerk

07A537416

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Filing

COURT MINUTES

May 16, 2007

07A537416	Las Vegas Metropolitan Police Dept
	vs
	U S Currency \$281,656.73

May 16, 2007 8:30 AM Motion

HEARD BY: COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT: Weed, Randall F. Attorney

JOURNAL ENTRIES

- Court noted that Claimants Monroe and Furgason have filed motions to stay these proceedings, which is mandated by statute. COURT ORDERED, motions GRANTED, PROCEEDINGS STAYED until such time Claimants' criminal case is tried or they enter pleas, Mr. Weed to prepare and submit appropriate order. COURT FURTHER ORDERED, th 5/21/07 and 5/30/07 dates VACATED.

07A537416

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Filing

COURT MINUTES

September 22, 2008

07A537416 Las Vegas Metropolitan Police Dept
vs
U S Currency \$281,656.73

September 22, 2008 3:00 AM Motion to Withdraw as Counsel

HEARD BY: Cadish, Elissa F.

COURTROOM: RJC Courtroom 15B

COURT CLERK:

RECORDER:

REPORTER:

PARTIES
PRESENT:

JOURNAL ENTRIES

- There being no opposition, COURT ORDERED, motion GRANTED; moving party to submit the order.

CLERK'S NOTE: The above minute order has been Distributed to: Sean P. Sullivan (Kelly & Sullivan LTD.)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Filing

COURT MINUTES

June 11, 2010

07A537416	Las Vegas Metropolitan Police Dept
	vs
	U S Currency \$281,656.73

June 11, 2010	8:33 AM	Motion	Deft. Robert Holmes III's Motion For Return of Illegally Seized Preoperty and Money
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HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 16D

COURT CLERK: Katherine Streuber

RECORDER:

REPORTER:

PARTIES
PRESENT:

JOURNAL ENTRIES

- Pursuant to EDCR 2.20, no points and authorities being filed and the motion not being served on interested parties, COURT ORDERED, motion DENIED.

CLERK'S NOTE: The above minute order has been distributed to: Robert Holmes III #1034184, c/o Southern Department Correctional Center, P.O. Box 208, Indian Springs, NV 89070. 06/11/10 kls

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Filing

COURT MINUTES

January 09, 2012

07A537416 Las Vegas Metropolitan Police Dept
vs
U S Currency \$281,656.73

January 09, 2012	3:00 AM	Motion to Reconsider	Plaintiff's Motion to Reconsider Court Statistically Closing Case
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HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 16D

COURT CLERK: Katherine Streuber

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Having considered the moving papers, COURT ORDERED, motion GRANTED.

CLERK'S NOTE: The above minute order has been distributed to: Thomas J. Moreo, Chief Deputy District Attorney. 01/10/12 kls

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Filing

COURT MINUTES

February 06, 2012

07A537416	Las Vegas Metropolitan Police Dept
	vs
	U S Currency \$281,656.73

February 06, 2012	3:00 AM	Motion	Defendant's Motion for Enlargement of time to Respond to Plaintiff's Motion to Reconsider Court Statistically Closing Case
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HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 16D

COURT CLERK: Katherine Streuber

RECORDER:

REPORTER:

PARTIES
PRESENT:

JOURNAL ENTRIES

- COURT ORDERED, matter CONTINUED to hearing calendar.

02-21-12 8:00 AM Defendant's Motion for Enlargement of time to Respond to Plaintiff's Motion to Reconsider Court Statistically Closing Case

CLERK'S NOTE: The above minute order has been distributed to: Robert Holmes III #1034184 c/o Southern Desert Correctional Center, P.O. Box 208, Indian Springs, NV 89018 and Thomas J. Moreo, Chief Deputy District Attorney - Civil Division. 02/08/12 kls

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Filing

COURT MINUTES

February 21, 2012

07A537416 Las Vegas Metropolitan Police Dept
 vs
 U S Currency \$281,656.73

February 21, 2012	8:00 AM	Motion	Defendant's Motion for Enlargement of time to Respond to Plaintiff's Motion to Reconsider Court Statistically Closing Case
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HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 16D

COURT CLERK: Katherine Streuber

RECORDER: Jill Jacoby

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- There being no parties present, COURT ORDERED, matter CONTINUED. Law Clerk to notify parties.

02-28-12 8:00 AM DEFENDANT'S MOTION FOR ENLARGEMENT OF TIME TO RESPOND TO PLAINTIFF'S MOTION TO RECONSIDER COURT STATISTICALLY CLOSING CASE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Filing

COURT MINUTES

February 28, 2012

07A537416	Las Vegas Metropolitan Police Dept
	vs
	U S Currency \$281,656.73

February 28, 2012	8:00 AM	All Pending Motions	Deft's Motion to Dismiss Plaintiff's Motion to Reconsider Court Statistically Closing Case; Defendant's Motion for Enlargement of time to Respond to Plaintiff's Motion to Reconsider Court Statistically Closing Case
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HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 16D

COURT CLERK: Katherine Streuber

RECORDER: Jill Jacoby

REPORTER:

PARTIES

PRESENT: Moreo, Thomas Joseph Attorney

JOURNAL ENTRIES

- Court advised case had been closed in error. Counsel gave a history of this case and Defendant Holmes. Counsel advised they are filing a Motion to Lift Stay and will be requesting a trial setting. Court stated its findings and ORDERED, Defendant's Motion for Enlargement of Time is OFF CALENDAR as Moot and Defendant's Motion to Dismiss, originally set for March 13, 2012 is DENIED. Mr. Moreo to prepare the order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Filing

COURT MINUTES

April 09, 2012

07A537416	Las Vegas Metropolitan Police Dept vs U S Currency \$281,656.73
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April 09, 2012

3:00 AM

Motion

Plaintiff's Motion to Lift Stay

HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 16D

COURT CLERK: Katherine Streuber

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Having reviewed the moving papers, COURT ORDERED, motion GRANTED.

CLERK'S NOTE: The above minute order has been distributed to: Thomas J. Moreo Deputy District Attorney, Civil Division. 04/13/12 kls

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Filing

COURT MINUTES

June 05, 2012

07A537416 Las Vegas Metropolitan Police Dept
 vs
 U S Currency \$281,656.73

June 05, 2012

8:00 AM

Motion for Summary
Judgment

Plaintiff's Motion for
Summary Judgment

HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 16D

COURT CLERK: Katherine Streuber

RECORDER: Jill Jacoby

REPORTER:

PARTIES

PRESENT: Moreo, Thomas Joseph Attorney

JOURNAL ENTRIES

- Colloquy regarding opposition being filed by Defendant who is incarcerated. Counsel advised Mr. Holmes is incarcerated in Southern Desert Correctional Center and Mr. Monroe is incarcerated in High Desert State Prison. COURT ORDERED, matter CONTINUED. Mr. Moreo to prepare the order.

08-07-12 8:00 AM Plaintiff's Motion for Summary Judgment

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Filing

COURT MINUTES

July 23, 2012

07A537416 Las Vegas Metropolitan Police Dept
 vs
 U S Currency \$281,656.73

July 23, 2012	3:00 AM	Motion to Withdraw as Counsel	Cynthia L. Dustin, Esq's Motion to Withdraw as Counsel
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HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 16D

COURT CLERK: Katherine Streuber

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- There being no opposition, COURT ORDERED, motion GRANTED.

CLERK'S NOTE: The above minute order has been distributed to: Cynthia Dustin Esq. 08/09/12 kls

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Filing

COURT MINUTES

August 07, 2012

07A537416 Las Vegas Metropolitan Police Dept
 vs
 U S Currency \$281,656.73

August 07, 2012	8:00 AM	All Pending Motions	Plaintiff's Motion for Summary Judgment; Defendant Daimon Monroe's Pro Per Motion to Strike Summary Judgment by Plaintiff
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HEARD BY: Bonaventure, Joseph T.

COURTROOM: RJC Courtroom 16D

COURT CLERK: Katherine Streuber

RECORDER: Debbie Winn

REPORTER:

PARTIES

PRESENT:	Ferguson, Bryan M	Other Defendant
	Holmes III, Robert	Other Defendant
	Monroe, Daimon	Other Defendant
	Moreo, Thomas Joseph	Attorney

JOURNAL ENTRIES

- Colloquy regarding Defendant Trevarthen's service and whether summary judgment should be granted as to her at this time. Mr. Moreo advised Defendant had moved to Texas and all documents came back, noted all parties had been served. Defendant Ferguson believed his attorney was handling the case and now understands she is not. Mr. Moreo advised all Defendants have no attorneys and all were served. Court advised in all fairness to Defendant Ferguson, it will allow time for Defendant to file a response to the Motion for Summary Judgment. Mr. Moreo advised he had nothing further to add and would not like to hear this matter twice. Statement by the Court. Arguments by Defendants. Court stated its findings and ORDERED, Defendant Monroe's Motion to Strike is DENIED. FURTHER, Motion for Summary Judgment is CONTINUED. State to prepare Order to transport for all three Defendants.

07A537416

11-13-12 8:00 AM PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Filing

COURT MINUTES

October 08, 2012

07A537416 Las Vegas Metropolitan Police Dept
vs
U S Currency \$281,656.73

October 08, 2012	3:00 AM	Motion	Defendant, Daimon Monroe's Pro Per Motion For Return of Seized Property and Suppresion of Evidence
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HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 16D

COURT CLERK: Katherine Streuber

RECORDER:

REPORTER:

PARTIES
PRESENT:

JOURNAL ENTRIES

- Having reviewed all the moving papers, FINDS that all of the issues brought by the Claimant in his motion s have been resolved in prior proceedings, THEREFORE, COURT ORDERED, motion is DENIED as motion is improperly before the Court.

CLERK'S NOTE: The above minute order has been distributed to: D.D.A. Thomas J. Moreo, Civil Division. 10/19/12 kls

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Filing

COURT MINUTES

October 22, 2012

07A537416 Las Vegas Metropolitan Police Dept
vs
U S Currency \$281,656.73

October 22, 2012	3:00 AM	Motion	Defendant, U.S. Currency \$281,656.73 Motion for Material Evidence
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HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 16D

COURT CLERK: Katherine Streuber

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Having reviewed all the moving papers and the State's Opposition FINDS that Defendant's motion has been resolved by way of trial or at the Nevada Supreme Court level. Therefore, COURT ORDERED, motion DENIED. Mr. Moreo to prepare the order.

CLERK'S NOTE: The above minute order has been distributed to: Thomas J. Moreo D.D.A., Civil Division. 10/25/12 kls

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Filing

COURT MINUTES

November 13, 2012

07A537416	Las Vegas Metropolitan Police Dept vs U S Currency \$281,656.73
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November 13, 2012	8:00 AM	All Pending Motions	Defendant's Motion for Summary Judgment and to Strike Plaintiff's Motion for Summary Judgment; Plaintiff's Motion for Summary Judgment
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HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 16D

COURT CLERK: Katherine Streuber

RECORDER: Jill Jacoby

REPORTER:

PARTIES

PRESENT:	Ferguson, Bryan M	Other Defendant
	Holmes III, Robert	Other Defendant
	Monroe, Daimon	Other Defendant
	Moreo, Thomas Joseph	Attorney

JOURNAL ENTRIES

- Court advised it had read both motions and inquired if any of the Defendants wished to add anything. Defendant Monroe advised matter being on appeal regarding denial of motion in this case. Court advised it did not have jurisdiction. Argument by Defendant Monroe regarding lack of search warrant when items were taken. Defendant Monroe's Motion to Proceed in Forma Pauperis FILED IN OPEN COURT and Order SIGNED by the Court. Defendant Holmes argued closure/ dismissal of instant case in October of 2009. Court advised case was closed administratively due to no movement. Further argument by Defendant Holmes. Court advised it would look into the timing. Further argument by Defendant Holmes. Defendant Ferguson advised it did not receive response to his motion. Argument by Mr. Moreo regarding search warrant having been resolved at trial and noted

PRINT DATE: 06/07/2013

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Minutes Date: May 16, 2007

monies were never in possession of Defendants. Further arguments by Defendants. Court advised it would review the criminal case and noted it would have to RESERVE its ruling pending the appeal. Further arguments by Defendants. COURT SO NOTED.

Certification of Copy and Transmittal of Record

State of Nevada }
County of Clark } SS:

Pursuant to the Supreme Court order dated May 30, 2013, I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, do hereby certify that the foregoing is a true, full and correct copy of the complete trial court record for the above referenced case. The record comprises four volumes with pages numbered 1 through 823.

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT,

Plaintiff(s),

vs.

U S CURRENCY \$281,656.73,

Defendant(s),

Case No: A537416

Dept No: VIII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 7 day of June 2013.

Steven D. Grierson, Clerk of the Court



Teodora Jones, Deputy Clerk